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DOCUMENTS RELATIFS AUX  
RELATIONS EXTÉRIEURES DU CANADA

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DOCUMENTS ON CANADIAN  
EXTERNAL RELATIONS







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RELATIONS EXTÉRIEURES DU CANADA

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DOCUMENTS ON CANADIAN  
EXTERNAL RELATIONS

VOLUME 4

1926 - 1930

Compilé par / Edited by

Alex. I. Inglis

Carleton University

MINISTÈRE DES AFFAIRES EXTÉRIEURES  
DEPARTMENT OF EXTERNAL AFFAIRS



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## INTRODUCTION

Ce quatrième volume de la collection *Documents relatifs aux relations extérieures du Canada* suit, pour l'essentiel, le modèle établi dans les trois tomes précédents. Les critères qui ont présidé au choix des documents sont ceux-là qu'on retrouve en introduction au tome premier, à cette différence près, cependant, que l'accent porte davantage sur l'élaboration des politiques. A cette fin, l'éditeur a fait une part plus grande aux mémorandums et aux lettres «personnelles» dans l'espoir que ces documents refléteront mieux le caractère et la personnalité des hommes de cette période. Ce tome respecte la présentation bilingue inaugurée avec le tome 3, formule qui remplace les éditions française et anglaise distinctes des deux premiers tomes. Les pages d'introduction, les légendes, les notes de bas de page et l'index sont dans les deux langues officielles, tandis que les documents apparaissent dans leur langue d'origine. Comme dans le cas des tomes précédents, la plupart des documents sont en anglais, mais le nombre de documents en français a augmenté en raison de l'échange de légations avec la France et de l'entrée de Canadiens français au Ministère. Le document 504 marque probablement la première occasion où des instructions, à l'égard d'une importante décision de politique étrangère, furent communiquées en français.

Les années 1926 à 1930 furent témoin d'une série d'événements d'importance majeure pour les relations extérieures du Canada. Le projet de créer de nouvelles institutions qui auraient permis à l'Empire de survivre en tant qu'entité internationale avait déjà subi de sérieux revers. Les Conférences impériales de 1926 et de 1930 et la Conférence de 1929 sur la portée de la législation des Dominions en ont marqué le rejet définitif. En outre de façonner le cadre de la libre association d'États qui devint le Commonwealth des nations, ces conférences ont arrêté les méthodes qui devaient, par la suite, habiliter les Dominions à formuler et à conduire leur propre politique étrangère. Les documents illustrent le changement important dans le rôle que le Canada a joué dans cette évolution. D'une position d'avant-garde dans l'affirmation des droits des Dominions il était passé à un rôle de médiateur entre l'État libre d'Irlande et la Grande-Bretagne et, dans une certaine mesure, les autres Dominions. Toutefois les rapports impériaux sont demeurés le pivot de ses relations extérieures et le principal facteur stratégique dans l'élaboration de sa politique étrangère.

Cette période de transformation des relations impériales est aussi celle du développement des relations avec les États-Unis. Le lien fortuit entre ces deux évolutions doit rester sujet à conjectures et à opinions, mais il semble qu'en assumant la gouverne de sa propre activité diplomatique, le Canada

## INTRODUCTION

The pattern established in the first three volumes of *Documents on Canadian External Relations* is generally followed in this, the fourth volume. The criteria for selection set forth in the Introduction to Volume 1 have been adopted, except that a greater emphasis has been placed on the formulation of policy. To this end more memoranda and "personal" letters have been included. The Editor hopes that, as a by-product of the inclusion of these documents, something of the personality and character of the figures of the period will show through. The bilingual format introduced in Volume 3 has been continued, replacing the separate English and French editions of Volumes 1 and 2. The introductory pages, captions, footnotes and index are presented in both official languages, while the documents are presented in their language of origin. As in the preceding volumes, the vast majority of the documents are in English but the proportion of French documents has increased, reflecting the exchange of legations with France and the entrance of a number of French-Canadians into the Department's service. Document 504 represents probably the first time instructions on a major Canadian foreign policy decision were communicated in the French language.

During the years 1926-30 there were a number of important developments in Canadian external relations. The scheme to develop new forms and institutions which would permit the Empire to survive as an international unit had already suffered major reverses. The Imperial Conferences of 1926 and 1930 and the Conference on the Operation of Dominion Legislation, 1929, marked the final rejection of the project. These conferences hammered out the framework for the loose association of states that has become the Commonwealth of Nations, and they established the procedures whereby the Dominions could formulate and conduct their own foreign policy. The documents reflect a major shift in the Canadian role in this process. From her position in the vanguard in the establishment of Dominion rights, Canada had come to occupy a mediatory position between the Irish Free State and Britain, and to some extent the rest of the Dominions. The imperial relationship, nonetheless, remained the pivot of Canadian external relations and the crucial strategic consideration in the formulation of foreign policy.

Parallel to these changes in the imperial relationship was a growth in relations with the United States. The causal connection of these two features must remain a matter of conjecture and opinion but it appears that, as Canada came to handle her own diplomatic activities, she became more

ait mieux pénétré la nature des préoccupations américaines et leur ait accordé une attention plus bienveillante. Tout en reflétant une prise de conscience des effets du voisinage des deux pays sur le même continent, les documents révèlent peu d'enthousiasme à l'égard d'un pur «continentalisme». L'observation de Hume Wrong<sup>1</sup> selon laquelle les États-Unis avaient si peu besoin des autres que s'il leur fallait quelque chose l'occasion devait être saisie pour «obtenir un bon prix» semble avoir été comprise à Ottawa et appliquée (peut-être inconsciemment) dans les choix politiques.

L'attitude ambivalente que le Canada manifestait à l'égard des organisations internationales constitue une autre caractéristique de la politique étrangère de cette période. La participation à la Société des Nations lui offrait une tribune utile pour rehausser son prestige sur le plan international. En conséquence, il a poursuivi son activité dans ce domaine durant toute cette période et elle s'est accrue lors de son élection en 1927 au Conseil de la S.D.N. Cette époque vit maintes fois s'exprimer l'espoir, ultérieurement déçu, de confiner les conflits et luttes de l'Europe à ce continent; peu de gens semblaient conscients du fait que seuls l'intérêt et l'ambition politique, ainsi que des impératifs d'ordre stratégique, limitent les guerres contemporaines. En même temps, l'absence des États-Unis de la S.D.N. y rendait plus difficile la présence du Canada et moins désirable sa participation. Par contre, le contraire se produisit dans le cas de l'Union panaméricaine où la présence de son voisin a lourdement pesé dans sa décision de ne pas y adhérer. Bien que l'action du Canada au sein de l'O.I.T. fût limitée par la répartition même des pouvoirs entre le gouvernement fédéral et les provinces, on eut recours avec enthousiasme à la Cour permanente de justice internationale comme système d'arbitrage analogue, par ses effets, à celui qui existait entre le Canada et les États-Unis.

Le présent volume est conçu en fonction de ces considérations et des changements qui ont marqué la politique étrangère du Canada pendant cette période. Certains sujets auxquels un chapitre était consacré dans les volumes précédents (immigration, questions relatives à la frontière, l'après-guerre, etc.) sont disparus. Le premier chapitre s'intitule encore «Conduite des relations extérieures» alors que les suivants portent sur les divers centres d'intérêt de l'époque: Empire, États-Unis, organisations internationales, ententes multilatérales et bilatérales, et autres négociations.

Les années 1926 à 1930 virent aussi de profondes modifications aux moyens dont disposait le Canada pour assurer la conduite de sa propre politique étrangère. Entre 1909 et 1925, le ministère des Affaires extérieures n'avait connu que peu d'expansion. Lorsque Sir Joseph Pope se retira du poste de sous-secrétaire d'État aux Affaires extérieures, le Ministère différait peu, par sa structure et son effectif, de celui qu'il avait fondé en 1909, et il n'y avait qu'une poignée de fonctionnaires à exercer un rôle diplomatique à l'étranger (p. ex., W. H. Riddell, M. M. Mahoney, P. C.

<sup>1</sup> Document 368.

familiar with, and perhaps more sympathetic to, the concerns of the United States. The documents, while exhibiting an awareness of the consequences of our continental environment, reveal little enthusiasm for continentalism *per se*. Hume Wrong's observation<sup>1</sup>, that the United States needed so little from anyone that when they did the opportunity ought to be seized to "extract a good price", appears to have been understood in Ottawa and (perhaps unconsciously) applied in deciding policy.

Another aspect of Canadian foreign policy in this period was the ambivalent attitude towards international organizations. Participation in the League of Nations was a valuable instrument for enhancing Canada's international status. As a result Canadian participation was continued throughout the period and was increased in 1927 by the successful bid for a seat on the League Council. There is considerable evidence of the abortive hope that European conflicts and struggles could be contained within that continent's boundaries and little evidence of an awareness that, with modern weaponry, warfare is limited only by political interest and ambition, and the necessities of strategic considerations. At the same time the absence of the United States from Geneva made Canada's participation awkward and her membership less desirable. While the non-membership of the United States in the League of Nations created a quandary for Canadian foreign policy, the opposite was the case with regard to the Pan-American Union. The membership of the United States in that organization was a major factor in Canada's decision against joining. While Canadian participation in the International Labour Organization was limited by the nature of the division of powers between the federal and provincial governments, the Permanent Court of International Justice was enthusiastically embraced as a system of arbitration similar in effect to that in existence between Canada and the United States.

These developments and considerations of Canadian foreign policy are reflected in the organization of the volume. The topical chapters of the earlier volumes (Immigration, Boundary Questions, Aftermath of War etc.) have disappeared. The first chapter is once again entitled "Conduct of External Relations". The remaining chapters reflect the areas of Canadian relationships: the Empire, the United States, International organizations, and other multilateral and bilateral negotiations and arrangements.

The years 1926-30 also saw a number of fundamental changes in Canada's capacity to handle her own foreign policy. Between 1909 and 1925 there had been little growth in the Department of External Affairs. When Sir Joseph Pope retired as Under-Secretary of State for External Affairs, the structure and size of the Department was not much different from that which he had established in 1909 and there was a mere handful of quasi-diplomatic officers abroad (e.g., W. H. Riddell, M. M. Mahoney, P. C.

<sup>1</sup> Document 368.



Larkin, P. Roy). Sous la direction du nouveau sous-secrétaire, O. D. Skelton, et dans le cadre du rôle grandissant du Canada dans le domaine international, essor que venait seconder la création de légations dans trois capitales étrangères, un certain nombre de recrues devinrent membres du Ministère ou y furent associées. Certaines de ces personnes ont acquis par la suite une réputation éminente tant dans le service diplomatique du Canada que dans d'autres domaines de la vie nationale (citons Vincent Massey, Lester B. Pearson, Norman A. Robertson, Georges P. Vanier). Ce n'est qu'au seuil de la Seconde Guerre mondiale que le Ministère s'enrichit à nouveau d'une aussi forte vague d'hommes compétents.

Ce fut aussi, comme nous l'avons déjà mentionné, la période de l'ouverture de nos premières missions diplomatiques à l'étranger, d'abord à Washington, puis à Paris et à Tokyo. On trouvera au chapitre premier l'histoire de la fondation de chacune de ces légations. De la lecture des documents relatifs à ces trois événements se dégagera l'ensemble du processus de négociations qui a abouti à leur établissement.

Dans la préparation du présent volume, les archives du ministère des Affaires extérieures ont fourni la principale source de documents. A ces matériaux se sont ajoutés divers éléments provenant de diverses collections des Archives publiques du Canada, les plus précieuses à cette fin étant celles de William Lyon Mackenzie King, d'Arthur Meighen et de Richard Bedford Bennett, ainsi que la série des documents Skelton. Les collections de gouverneurs généraux, tant aux Archives publiques qu'à Rideau Hall, se sont aussi révélées utiles, et l'éditeur tient à remercier Sa Majesté la Reine d'avoir autorisé la publication des documents 67, 75, 79, 84 et 85; il remercie en outre le cabinet du gouverneur général de l'avoir aidé à obtenir cette autorisation. Le lecteur peut être assuré que, sous réserve de l'espace restreint, nous n'avons omis aucun document susceptible de les éclairer sur les relations extérieures du Canada. L'éditeur a pu consulter tous les documents de l'époque. Leur choix et leur publication n'ont fait l'objet d'aucune contrainte. Aucun document n'a été omis pour des raisons d'État ou pour éviter de la gêne à une personne ou à un groupe quelconque.

Enfin, l'éditeur désire remercier les membres du personnel de la direction des Affaires historiques qui ont collaboré à la préparation de ce volume. Un mot particulier de remerciement s'adresse aux stagiaires d'été et aux jeunes diplômés qui ont facilité la recherche des documents, et aux dactylographes qui ont transcrit avec entrain et bonne humeur une masse considérable de documents. Ceci dit, l'éditeur souhaiterait pouvoir faire sien l'avertissement que lance saint Bède le Vénérable dans son introduction à *l'Histoire ecclésiastique de la nation anglaise* lorsqu'il implore humblement le lecteur de ne point lui attribuer ce qu'il trouverait de non conforme à la vérité. La pratique académique ne permettant plus un tel dégagement de responsabilités, l'éditeur se veut entièrement responsable à la fois de ce qui est présenté dans ce volume et de ce qui en est omis.

Alex. I. Inglis

Larkin, P. Roy). Under the supervision of the new Under-Secretary, O. D. Skelton, and with the impetus of growing Canadian responsibility for external affairs and the corollary establishment of legations in three foreign capitals, a number of new officers joined the Department or became associated with it. Some of these recruits rose to great prominence in later years both in the Canadian diplomatic service and in other areas of the nation's life (e.g., Vincent Massey, Lester B. Pearson, Norman A. Robertson, Georges P. Vanier). Not until World War II did the Department again experience such an influx of able men.

As indicated above this was also the period when our first diplomatic missions were established abroad; first in Washington and then in Paris and Tokyo. The story of the founding of each of these legations is to be found in Chapter I, and the whole process of negotiating the establishment of legations can be seen when the documents on the three events are read as a whole.

In preparing this volume for publication the main source of documents has been the files of the Department of External Affairs. This has been augmented by material found in various collections in the Public Archives of Canada. The most valuable of these collections were those of William Lyon Mackenzie King, Arthur Meighen and Richard Bedford Bennett and the so-called Skelton Papers. The collections of the Governors General, both at the Public Archives and at Government House, have also been useful and the Editor would like to express his thanks to Her Majesty the Queen for permission to publish Documents 67, 75, 79, 84 and 85, and to the Governor General's Office for assistance in obtaining this permission. The reader is assured that, subject to considerations of space, no documents have been omitted if it was felt that they would throw light upon Canada's external relations. The Editor has had access to all documents of the period and has been under no restrictions in their selection and publication. No document has been omitted for reasons of state or to avoid embarrassment to any individual or group.

Finally, the Editor would like to thank the regular members of the staff of the Department's Historical Division who have assisted in the preparation of this volume. A special word of thanks is due to the succession of summer students and graduate assistants who have made the search for documents much easier and to the typists who have handled the bulky mass of material with good humour and willingness. When all that is said the Editor wishes he could join with the Venerable Bede who, in his introduction to *The Ecclesiastical History of the English Nation*, wrote: "I humbly entreat the reader, that if he shall in this find anything not delivered according to the truth, he will not impute the same to me . . ." Scholarly practice, however, no longer permits such disclaimers and the Editor therefore accepts full responsibility both for what is presented in this volume and for what is omitted.

Alex. I. Inglis



## LISTE DES PRINCIPALES PERSONNALITÉS

### LIST OF PRINCIPAL PERSONS

- |                                                                                                                                                                                                      |                                                                                                                                                                                |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Alderdice (F. C.), premier ministre de Terre-Neuve en 1928.                                                                                                                                          | Alderdice, F. C., Prime Minister of Newfoundland, 1928.                                                                                                                        |
| Amery (L. C. M. S.), secrétaire aux Dominions britannique de 1925 à 1928.                                                                                                                            | Amery, L. C. M. S., British Dominions Secretary, 1925-29.                                                                                                                      |
| Anglin (F. A.), Juge en chef de la Cour suprême du Canada de 1924 à 1933.                                                                                                                            | Anglin, F. A., Chief Justice of Canada, 1924-33.                                                                                                                               |
| Baldwin (S.), Premier ministre britannique et premier lord de la Trésorerie de 1923 à 1924.                                                                                                          | Baldwin, S., British Prime Minister and First Lord of the Treasury, 1923-24 and 1924-29.                                                                                       |
| Balfour (earl), Lord président du Conseil de 1925 à 1929.                                                                                                                                            | Balfour, Earl, British Lord President of the Council, 1925-29.                                                                                                                 |
| Batterbee (H. F.), secrétaire adjoint, bureau des Dominions de 1925 à 1930.                                                                                                                          | Batterbee, H. F., Assistant Secretary, Dominions Office, 1925-30.                                                                                                              |
| Bennett (R. B.), ministre des Finances en 1926; premier ministre, secrétaire d'État aux Affaires extérieures, et président du Conseil Privé de 1930 à 1935; et ministre des Finances de 1930 à 1932. | Bennett, R. B., Minister of Finance, 1926; Prime Minister, Secretary of State for External Affairs, and President of Privy Council, 1930-35; and Minister of Finance, 1930-32. |
| Borden (sir R. L.), délégué à l'Assemblée de la Société des Nations en 1930.                                                                                                                         | Borden, Sir R. L., Delegate to League of Nations Assembly, 1930.                                                                                                               |
| Briand (A.), premier ministre de la France et ministre des Affaires étrangères de 1925 à 1926.                                                                                                       | Briand, A., French Prime Minister and Foreign Minister, 1925-26.                                                                                                               |
| Bruce (S. M.), premier ministre de l'Australie et ministre des Affaires extérieures de 1923 à 1929.                                                                                                  | Bruce, S. M., Prime Minister of Australia and Minister for External Affairs, 1923-29.                                                                                          |
| Byng de Vimy (vicomte), gouverneur général de 1921 à 1926.                                                                                                                                           | Byng of Vimy, Viscount, Governor General, 1921-26.                                                                                                                             |
| Castle (W. R.), secrétaire d'État adjoint des États-Unis de 1927 à 1931.                                                                                                                             | Castle, W. R., United States Assistant Secretary of State, 1927-31.                                                                                                            |
| Cecil (lord Robert), lord du Sceau privé britannique de 1923 à 1927.                                                                                                                                 | Cecil, Lord Robert, British Lord Privy Seal, 1923-27.                                                                                                                          |
| Chamberlain (sir J. A.), secrétaire aux Affaires étrangères britannique de 1924 à 1929.                                                                                                              | Chamberlain, Sir J. A., British Foreign Secretary, 1924-29.                                                                                                                    |

- Churchill (W. L. S.), chancelier de l'Échiquier britannique de 1924 à 1929.
- Clark (sir W. H.), haut commissaire britannique à Ottawa de 1928 à 1934.
- Coates (J. G.), premier ministre de la Nouvelle-Zélande de 1925 à 1928; ministre des Affaires extérieures en 1928; chef de l'opposition de Sa Majesté de 1928 à 1931.
- Coolidge (C.), président des États-Unis de 1923 à 1929.
- Cushendun (lord R. J. M.), sous-secrétaire d'État parlementaire aux Affaires étrangères britannique de 1922 à 1924, 1924 à 1925; secrétaire financier à la Trésorerie de 1925 à 1927; secrétaire aux Affaires étrangères par intérim en 1928.
- Dandurand (R.), sénateur de 1898 à 1942; ministre d'État de 1921 à 1926 et 1926 à 1930.
- Doumergue (Gaston), président de la France de 1924 à 1931.
- Drummond (sir J. E.), secrétaire général de la Société des Nations de 1919 à 1933.
- Duff (sir L. P.), juge de la Cour suprême de 1906 à 1933.
- Fitzgerald (D.), ministre des Affaires extérieures de l'État libre d'Irlande de 1922 à 1927; ministre de la Défense de 1927 à 1932.
- Forke (R.), ministre de l'Immigration et de la Colonisation de 1926 à 1929.
- Grew (J. C.), sous-secrétaire d'État des États-Unis de 1924 à 1927.
- Harding (sir E. J.), sous-secrétaire adjoint aux Dominions britannique de 1925 à 1930; sous-secrétaire inamovible aux Dominions en 1930.
- Hankey (sir M. P. A.), secrétaire du Comité de la Défense impériale de 1912 à 1938; secrétaire du Cabinet britannique de 1919 à 1938.
- Henderson (A.), secrétaire aux Affaires étrangères britannique de 1929 à 1931.
- Hertzog (général, J. B. M.), premier ministre de l'Union sud-africaine de 1924 à 1939; ministre des Affaires extérieures de 1929 à 1939.
- Churchill, W. L. S., British Chancellor of the Exchequer, 1924-29.
- Clark, Sir W. H., British High Commissioner in Ottawa, 1928-34.
- Coates, J. G., Prime Minister of New Zealand, 1925-28; Minister of External Affairs, 1928; Leader of H. M. Opposition, 1928-31.
- Coolidge, C., United States President, 1923-29.
- Cushendun, Lord R. J. M., British Parliamentary Under-Secretary for Foreign Affairs, 1922-24, 1924-25; Financial Secretary to Treasury, 1925-27; Acting Foreign Secretary, 1928.
- Dandurand, R., Senator, 1898-1942; Minister without Portfolio, 1921-26 and 1926-30.
- Doumergue, G., President of France, 1924-31.
- Drummond, Sir J. E., Secretary-General, League of Nations, 1919-33.
- Duff, Sir L. P., Justice of the Supreme Court, 1906-33.
- Fitzgerald, D., Irish Free State Minister of External Affairs, 1922-27; Minister for Defence, 1927-32.
- Forke, R., Minister of Immigration and Colonization, 1926-29.
- Grew, J. C., United States Under-Secretary of State, 1924-27.
- Harding, Sir E. J., British Assistant Under-Secretary for the Dominions, 1925-30; Permanent Under-Secretary for the Dominions, 1930.
- Hankey, Sir M. P. A., Secretary, Committee of Imperial Defence, 1912-38; Secretary, British Cabinet, 1919-38.
- Henderson, A., British Foreign Secretary, 1929-31.
- Hertzog, General J. B. M., Prime Minister of South Africa, 1924-39; Minister of External Affairs, 1929-39.

- Hickerson (J. D.), consul des États-Unis à Ottawa de 1925 à 1927.
- Hoover (H.), président des États-Unis de 1929 à 1939.
- Hose (W.), commodore, directeur du Service naval de 1921 à 1928; contre-amiral, chef de l'État major naval de 1928 à 1934.
- Howard (sir E. W.), ambassadeur britannique à Washington de 1924 à 1930.
- Hurst (sir C. J. B.), conseiller juridique du Foreign Office de 1918 à 1929.
- Kellogg (F. B.), secrétaire d'État des États-Unis de 1925 à 1929; juge de la Cour permanente de Justice internationale de 1930 à 1935.
- King (W. L. M.), premier ministre et secrétaire d'État aux Affaires extérieures de 1921 à 1926 et 1926 à 1930.
- Knight (J.), ministre de la France de 1928 à 1929.
- Lapointe (E.), ministre de la Justice de 1924 à 1926 et 1926 à 1930.
- Larkin (P. C.), haut commissaire en Grande-Bretagne de 1922 à 1930.
- Lovat (lord S. J. F.), sous-secrétaire d'État parlementaire aux Dominions britannique de 1927 à 1928.
- MacDonald (J. R.), premier ministre britannique et secrétaire d'État aux Affaires étrangères en 1924; premier ministre de 1929 à 1931.
- McGilligan (P.), ministre des Affaires extérieures de l'État libre d'Irlande de 1927 à 1932; ministre de l'Industrie et du Commerce de 1924 à 1932.
- Macnider (H.), ministre des États-Unis de 1930 à 1932.
- Malcolm (J.), ministre du Commerce de 1926 à 1930.
- Marler (H. M.), ministre au Japon de 1929 à 1936.
- Massey (V.), ministre aux États-Unis de 1927 à 1930.
- Meighen (A.), premier ministre et secrétaire d'État aux Affaires extérieures en 1926.
- Hickerson, J. D., United States Consul in Ottawa, 1925-27.
- Hoover, H., United States President, 1929-33.
- Hose, W., Commodore, Director of Naval Services, 1921-28; Rear Admiral, Chief of the Naval Staff, 1928-34.
- Howard, Sir E. W., British Ambassador in Washington, 1924-30.
- Hurst, Sir C. J. B., British Foreign Office, Legal Adviser, 1918-29.
- Kellogg, F. B., United States Secretary of State, 1925-29; Judge of Permanent Court of International Justice, 1930-35.
- King, W. L. M., Prime Minister and Secretary of State for External Affairs, 1921-26 and 1926-30.
- Knight, J., French Minister, 1928-29.
- Lapointe, E., Minister of Justice, 1924-26 and 1926-30.
- Larkin, P. C., High Commissioner in Britain, 1922-30.
- ovat, Lord, S. J. F., Major-General, British Parliamentary Under-Secretary for Dominions, 1927-28.
- MacDonald, J. R., British Prime Minister and Foreign Secretary, 1924; Prime Minister, 1929-31.
- McGilligan, P., Irish Free State Minister of External Affairs, 1927-32; Minister of Industry and Commerce, 1924-32.
- Macnider, H., United States Minister, 1930-32.
- Malcolm, J., Minister of Trade and Commerce, 1926-30.
- Marler, H. M., Minister in Japan, 1929-36.
- Massey, V., Minister in United States, 1927-30.
- Meighen, A., Prime Minister and Secretary of State for External Affairs, 1926.



- Mulvey (T.), sous-secrétaire d'État de 1909 à 1933; administrateur-séquestre adjoint des Biens ennemis.
- Pacaud (L.), secrétaire, Haut commissariat, de 1922 à 1931; Haut commissaire par intérim de 1930 à 1931.
- Passfield (lord), secrétaire aux Colonies britannique de 1929 à 1931; secrétaire aux Dominions de 1929 à 1930.
- Phillips (W.), ministre des États-Unis de 1927 à 1929.
- Poincaré (R.), premier ministre de la France de 1926 à 1929; ministre des Finances de 1926 à 1928.
- Ralston (J. L.), ministre de la Défense nationale de 1926 à 1930.
- Read (J. E.), conseiller juridique, ministère des Affaires extérieures de 1929 à 1946.
- Riddell (W. A.), conseiller près la Société des Nations de 1925 à 1937.
- Rinfret (F.), secrétaire d'État et administrateur-séquestre des Biens ennemis de 1926 à 1930.
- Robb (J. A.), ministre des Finances de 1925 à 1926 et 1926 à 1929.
- Roy (P.), commissaire général en France de 1911 à 1928; ministre en France de 1928 à 1938.
- Scullin (J. H.), premier ministre de l'Australie et ministre des Industries de 1929 à 1931.
- Skelton (O. D.), sous-secrétaire d'État aux Affaires extérieures de 1925 à 1941.
- Stevens (H. H.), ministre des Douanes et de l'Accise en 1926; ministre du Commerce de 1930 à 1934.
- Stimson (H. L.), secrétaire d'État des États-Unis de 1929 à 1933.
- Stuart (sir C.), représentant à la Commission du câble du Pacifique de 1923 à 1928; et au Comité consultatif impérial des communications.
- Squires (sir R. A.), premier ministre et ministre de la Justice de Terre-Neuve de 1928 à 1932.
- Mulvey, T., Under-Secretary of State, 1909-33; Deputy Custodian of Enemy Property.
- Pacaud, L., Secretary, High Commissioner's Office, 1922-31; Acting High Commissioner, 1930-31.
- Passfield, Lord, British Colonial Secretary, 1929-31; Dominions Secretary, 1929-30.
- Phillips, W., United States Minister, 1927-29.
- Poincaré, R., French Prime Minister, 1926-29; Minister of Finance, 1926-28.
- Ralston, J. L., Minister of National Defence, 1926-30.
- Read, J. E., Legal Adviser, Department of External Affairs, 1929-46.
- Riddell, W. A., Canadian Advisory Officer at the League of Nations, 1925-37.
- Rinfret, F., Secretary of State and Custodian of Enemy Property, 1926-30.
- Robb, J. A., Minister of Finance, 1925-26 and 1926-29.
- Roy, P., Commissioner General in France, 1911-28; Minister in France, 1928-38.
- Scullin, J. H., Prime Minister of Australia and Minister of Industry, 1929-31.
- Skelton, O. D., Under-Secretary of State for External Affairs, 1925-41.
- Stevens, H. H., Minister of Customs and Excise, 1926; Minister of Trade and Commerce, 1930-34.
- Stimson, H. L., United States Secretary of State, 1929-33.
- Stuart, Sir C., Representative on the Pacific Cable Board, 1923-28; and on the Imperial Communications Advisory Committee.
- Squires, Sir R. A., Prime Minister and Minister of Justice of Newfoundland, 1928-32.

- Thomas (J. H.), lord du Sceau privé britannique de 1929 à 1930; secrétaire aux Dominions de 1930 à 1935.
- Tokugawa (prince Iyemasa), ministre du Japon de 1929 à 1935.
- Veniot (P. S.), ministre des Postes de 1926 à 1930.
- Walker (W. H.), sous-secrétaire d'État adjoint aux Affaires extérieures de 1909 à 1933.
- Willingdon (vicomte), gouverneur général de 1926 à 1931.
- Wrong (H. H.), secrétaire, Légation canadienne à Washington de 1927 à 1930; conseiller de 1930 à 1937.
- Thomas, J. H., British Lord Privy Seal, 1929-30; Dominions Secretary, 1930-35.
- Tokugawa, (Prince) Iyemasa, Japanese Minister, 1929-35.
- Veniot, P. S., Postmaster General, 1926-30.
- Walker, W. H., Assistant Under-Secretary of State for External Affairs, 1909-33.
- Willingdon, Viscount, Governor General, 1926-31.
- Wrong, H. H., Secretary, Legation in Washington, 1927-30; Counsellor, 1930-37.



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## CHAPITRE I/CHAPTER I

### CONDUITE DES RELATIONS EXTÉRIEURES CONDUCT OF EXTERNAL RELATIONS

La question constitutionnelle en 1926; le poste de gouverneur général; nomination du Haut commissaire britannique; échange de ministres avec les États-Unis, la France et le Japon; mode de communication avec les missions diplomatiques britanniques; relations entre les missions britanniques et celles des Dominions; formule d'annonce de la création de légations; recours aux services consulaires britanniques.

1926 constitutional issue; Office of Governor General; Appointment of British High Commissioner; Exchange of Ministers with United States, France, and Japan; Channel of Communication with British diplomatic missions; Relationship between British and Dominion missions; Form of notification of establishment of legations; Use of British consular services.

1.

*Le Gouverneur général au secrétaire aux Dominions*  
*Governor General to Dominions Secretary*

DESPATCH  
SECRET

Ottawa, January 18, 1926

Sir,

I have the honour to enclose, herewith, a Memorandum by my Secretary, setting forth what took place between myself and my Prime Minister immediately after the General Election which was held on the 29th of October last.

I have etc.

BYNG OF VIMY

## [PIÈCE JOINTE/ENCLOSURE]

*Mémorandum du secrétaire, Gouverneur général**Memorandum by Secretary, Governor General*

Ottawa, January 18, 1926

The General Election took place on the 29th October and the result was as follows:

Conservatives .....	117
Liberals .....	100
Progressives .....	23
Labour .....	2
Independent .....	1
Doubtful .....	1
[Total] .....	245 [sic]

The Prime Minister had several interviews with the Governor General between the 30th October and the 4th November.

At these interviews the situation was thoroughly discussed in all its bearings. The result of the first interview was that the Prime Minister went away saying he would resign—though he had not come up to Government House to hand in his resignation—but had accepted the private and confidential view expressed by the Governor General that that was his proper course.

The next day he came up again to see His Excellency and announced that he had changed his mind and now thought it was his duty and his right to stay on as Prime Minister and meet the House of Commons.

His Excellency again tried to persuade him to take the dignified course of resigning—as, as His Excellency pointed out, the Prime Minister had *lost* 17 seats, while the Leader of the Opposition had *gained* 67, but told him that there was no constitutional reason against his continuing in Office.

Several more interviews took place but the Prime Minister did not again change his mind. The only course then open to the Governor General was:

- (1) To insist on the Prime Minister calling the House of Commons to meet at the earliest possible moment.
- (2) To make the Prime Minister understand that no political appointments (Senators, Judges, etc.) could be made in the interim—and that no contracts should be made for any new public works.

His Excellency also gave the Prime Minister to understand that he would not grant him another dissolution.

The point of view that His Excellency endeavoured to keep uppermost in his mind was to maintain a feeling of friendship and confidence between Prime Minister and Governor General, although they were absolutely



opposed in opinions. There were moments when this was a matter of difficulty. The maintenance of this confidence seemed absolutely essential at a time when feeling throughout the Dominion was running high.

It only remains to be said that when first the announcement was made that the Prime Minister would not resign but would meet the House of Commons, there was a tendency on the part of the Conservatives in general (it must be remembered that political feelings were red-hot at the time) to criticise the Governor General's decision. This quickly disappeared, and it is now universally admitted that the Governor General did the right thing.

On the evening of the 4th November the Prime Minister issued the following statement to the press:

The latest official returns having made it apparent that as a result of the general election held on October 29th no one of the participating political parties would of itself have a clear majority in the House of Commons when Parliament assembled, it became my duty as Prime Minister to acquaint His Excellency the Governor-General with the situation and to advise His Excellency as to the course which should be pursued. After several interviews with His Excellency at which the position brought out by the recent general election was fully discussed and all alternatives presented, I have taken the responsibility of advising His Excellency to summon Parliament for the earliest practicable date in order to ascertain the attitude of the Parliamentary representatives towards the very important question raised by the numerical position of the respective political parties. His Excellency has been pleased to accept this advice.

After careful consideration of the constitutional precedents and their bearing upon the situation which has arisen as a result of the general election, the Cabinet decided unanimously this afternoon that it was their constitutional duty to meet Parliament at the earliest possible moment, regard being had for the legal requirements with respect to the time necessary for the return of the writs and the official gazettement of the members who have been elected.

In the interval until Parliament assembles it is the intention of the Government to refrain from making appointments beyond such as are essential for the proper carrying on of the public business.

In the present situation, there are three possible courses of procedure, each of which has been carefully considered by the Cabinet:

- (1) That His Excellency be asked to grant an immediate dissolution of Parliament;
- (2) That His Excellency be asked to call upon the Leader of the largest political group to form a Government;
- (3) That His Excellency be asked to summon Parliament at the earliest practicable date for the purpose afore-mentioned.

With respect to an immediate dissolution, it was felt that it was not in the interests of the country to occasion the turmoil and expense of another general election until at least Parliament had been summoned and the people's representatives in Parliament had been afforded an opportunity of giving expression to their views.

With respect to the leader of the political party having the largest definite following in the House of Commons being called upon to form an administration, the Cabinet holds the view that responsible self-government in Canada rests upon the principle that the majority are entitled to govern, the majority so understood meaning not the political party or group having the largest number of members, but the majority as determined by the duly elected representatives of the people in Parliament. Far from indicating that Mr. Meighen is in a position to command

a majority in the newly elected House of Commons the results of the elections appear clearly to indicate that he is not in such a position. I am not aware of any precedent in Great Britain or in Canada for recommending, before Parliament meets, that the leader of a party not commanding a clear majority in the House of Commons should be called upon to form a Government.

To summon Parliament and to allow the House of Commons to disclose its attitude upon division is the procedure warranted by constitutional precedent and by the present circumstances. To take any other course would be to fail to recognize the supreme right of the people to govern themselves in the manner which the constitution has provided, namely, expressing their will through their duly elected representatives in Parliament and in accordance with recognized parliamentary practice.

A. F. SLADEN

## 2.

*Le Premier ministre au premier ministre de Grande-Bretagne*

*Prime Minister to British Prime Minister*

Ottawa, February 10, 1926

My dear Prime Minister,

The recent visit of Lord and Lady Willingdon to Ottawa and mention in cabled Press despatches of Lord Willingdon's name as a possible successor as Governor-General of Canada to His Excellency Lord Byng, prompts me to write to ascertain the views of His Majesty's Government as to the method by which the choice of the next Governor-General of Canada should be made.

It has, I think, become pretty generally accepted that any appointment should have the cordial approval of both Governments and, should a difference of views arise, that regard should be had for the wishes of the Government of Canada. Both in the Old Land and in Canada there are some who hold the views that the appointment should be made by the British Government on the recommendation of the Canadian Government. This question is one which need not, I think, be raised at the present time, nor is it likely to be raised so long as there is agreement between the two Governments. I should like to do whatever lies in my power to assist in attaining this most desirable end.

If, in your opinion, it would be of assistance for me to ask you to let me have the names of persons whom His Majesty's Government would be prepared to consider for such an appointment, with a view to permitting an expression of opinion as to who of the number, everything considered, would likely prove to be the most acceptable, I should be glad to have you consider this letter as preferring such a request. If, however, any other course appears preferable to you, I should be glad to have a suggestion from yourself and will write you with frankness concerning it. The purpose of this letter is just to set the necessary machinery in motion in order that the appointment may be made in due course without inconvenience or embarrassment to any who may be concerned.

You know, I think, how ready our Government would be, should His Excellency be agreeable to either alternative, to recommend the renewal or extension of Lord Byng's term of office. The attitude of the Government in this regard is but expressive of the general sentiment of all classes in the Dominion.

Yours very sincerely,  
W. L. MACKENZIE KING

3.

*Le premier ministre de Grande-Bretagne au Premier ministre  
British Prime Minister to Prime Minister*

PERSONAL AND CONFIDENTIAL

London, March 2, 1926

My dear Mr. Mackenzie King,

I am glad to find from your letter of the 10th February that we are in complete agreement both as to the spirit and as to the manner in which we should approach the question of the selection of a successor to Lord Byng. I am entirely at one with you in regarding it as essential that any appointment should have the cordial approval of the Canadian Government, and I cannot think of any procedure which would be preferable to that which you suggest. It has been followed on various recent comparable occasions, and has worked satisfactorily. I will accordingly send you, as soon as I can, the names of some persons whom the King would be prepared, if acceptable to you, to consider for the appointment.

As regards Lord Willingdon I hope you have not been embarrassed by the Press reports to which you refer as having coupled his name with the appointment. We have not said or done anything to give rise to such reports and, so far as we are concerned, they are mere speculations.

It will give me great pleasure to inform the King of the appreciative terms in which you refer to Lord Byng's services, and I am sure that His Majesty will be highly gratified.

Yours very sincerely,  
STANLEY BALDWIN

4.

*Le premier ministre de Grande-Bretagne au Premier ministre  
British Prime Minister to Prime Minister*

London, March 26, 1926

My dear Prime Minister,

Since writing to you on the 2nd March I have taken an opportunity of obtaining the King's views upon the suitability of candidates for the success-

orship to Lord Byng, and with assent I should like to suggest the following names for your consideration which I shall mention in alphabetical order but which respectively represent the best man of his own leading type.

The first name, then, is that of the Earl of Cromer, the present Lord Chamberlain. Cromer has not any great advantage as to political or Cabinet experience; on the other hand he has a wide knowledge of foreign affairs acquired both in the Diplomatic Service and in the Foreign Office; he has also a good knowledge of India and, in his present position, has of course had ample opportunity to study affairs, if not as a participator at any rate as an inside observer. He possesses excellent judgment, good sense, and a dignified and pleasant personality. He has naturally not had very much practice in public speaking but, with his ability, I have little doubt that he would quickly acquire the requisite skill in that direction. Lady Cromer, one of the most attractive women, enjoys the advantage of having spent her early days in Canada where her father was Governor General, and is keenly interested in and enthusiastic about the country. The King, as I expected, is anything but anxious to release a servant who has filled his present position so admirably, but is willing to let him go if you so wish, and I have ascertained from Cromer himself that he would consider it a high honour if he were selected.

The second name in alphabetical order which I would submit to you is that of one of my colleagues in the Cabinet, Sir Samuel Hoare, the present Secretary of State for Air. Hoare has had a very distinguished record from his College days onward, and first became a member of the Cabinet nearly four years ago at the age of 42. His particular interests have always lain rather outside our ordinary party politics at home; he was private secretary to Alfred Lyttleton during his tenure of the Colonial Secretaryship, and before and during the war took a special interest in European affairs. He is a good linguist, speaking French, Italian and Russian; both he and his wife, Lady Maud, could hold their own very well in French either for social purposes or on public occasions. I have found him an admirable colleague and I should be very reluctant to part with him. At the same time I should not, of course, let any consideration of convenience here stand in his way should you wish to have him. He is a good speaker, and as regards general personality I feel sure you would like him and find him generally popular. His wife, a sister of Beauchamp, is by family associated with the other side in politics here, and would also do admirably. They have no children.

Thirdly a rather younger man of less experience in public affairs but a fine speaker and of a most engaging manner and really striking personality is the Marquess of Linlithgow. His political experience is confined to his tenure of the position of Civil Lord of the Admiralty in the Government of 1922-24 where he showed great capacity and organising power, so much so that I subsequently welcomed his assistance in overhauling our political organisation, and he also presided very ably over committees on agriculture. I do not know that he ever visited Canada but as a boy he was for some time in Australia during his father's Governor-Generalship and has since then



travelled a good deal round the Empire. As a personality he would, I think, make a great appeal to the Canadian public, while Lady Linlithgow is equally distinguished and charming. I do not yet know whether he would be willing that his name should receive consideration as he has only just returned from Egypt, but I see no reason to anticipate any hesitation to undertake so great a public service were the opportunity given him.

Lastly there is the name which you yourself mentioned as rumoured in the minds of men, namely that of Lord Willingdon. He is now nearly 60 and therefore decidedly older than any of the foregoing. His political experience at home has been limited, although at one time he was in the House and a Junior Whip. As a Governor of Bombay and of Madras over a period of some 12 years he was very successful and was greatly helped by Lady Willingdon's indefatigable energy. He has great charm, but on the personal side I need not elaborate as you have so recently met both him and his wife. I should say, however, that neither in great ability, knowledge of affairs, nor in the appeal which he would make to the public is he quite in the same class as the others whom I have mentioned. He is, as you know, at the present moment in China on a special mission and may not be free for some little time, and I have not been able to sound him as to his views if selected, but I have very little doubt that he would gladly avail himself of the opportunity.

I have, of course, on several occasions discussed this matter very fully with the Secretary of State for Dominion Affairs, who, as you know, has a very good personal experience of life and affairs in Canada, with the object of suggesting to you the best man we could find of political and Cabinet experience, of non-political experience but a diplomat and man of the world, or a younger man of personality and enthusiasm.

You will be able to judge which of these types corresponds best to Canada's requirements at the present time.

With kindest regards etc.

STANLEY BALDWIN

5.

*Le Premier ministre au premier ministre de Grande-Bretagne*  
*Prime Minister to British Prime Minister*

Ottawa, April 16, 1926

My dear Prime Minister,

I have received your letter of March 26th, supplementing your letter of March 2nd, with reference to the appointment of a successor to His Excellency Lord Byng in the position of Governor-General of Canada. I cannot too cordially express my appreciation of both communications.

Each of the four gentlemen whose names you have suggested for consideration is so distinguished as to cause me greatly to hesitate in venturing to



express an opinion as to the one who might be expected to possess the requisite qualifications in largest measure. I should, perhaps, say at once that the place Lord Byng has won in the affections of the Canadian people and in the confidence of all who have had to do with the administration of public affairs in Canada during his term of office, is such as to render exceedingly difficult any choice of a successor. It is, I believe, essential that whoever is chosen should possess qualities such as those which have won for His Excellency the favourable regard in which he is held alike in official and in unofficial circles.

I should put first and foremost in this connection His Excellency's natural willingness and ability to come quickly and personally in touch not only with all parts of the country but with all classes as well, and his complete detachment from party politics, both in fact, and in the public mind. Lord Byng's singular appreciation of, and ready sympathy with all that pertains to the lot of the average man and his impartial attitude generally have gone far, I believe, to establish through him as the representative of the Crown an attachment to the Crown itself which has been unsurpassed at any time in our political history.

The very evident determination on Lord Byng's part to maintain in his relations with his Ministers in Canada a detachment from the party politics of the United Kingdom as well as of Canada, a detachment as complete as that which His Majesty himself maintains in his relations with his Ministers in Great Britain, has begotten a sense of security and confidence on the part of His Excellency's advisers equal to that felt by the public in His Excellency as the representative of the King. In a word, Lord Byng has succeeded in banishing from the public mind and from the mind of his Ministers any suspicion that he regards himself as the representative of the Government of Great Britain or of any of its Departments rather than as the representative of His Majesty. In adhering to this strict constitutional attitude His Excellency has avoided the only point at which the relations between the Crown or its representative and the people of this Dominion have ever been in the least imperilled. It is in no way lessening the part played by his illustrious predecessors in this particular to say that responsible self-government in Canada has never reached a more satisfactory stage of development than that enjoyed under Lord Byng as Governor-General. It is not less important to the Empire than to our Dominion that this splendid position should be maintained.

It may appear that I am unnecessarily emphasizing the importance of the constitutional phase. If I do so, it is because I believe it lies at the root of all else in the relations between the Dominions and the Mother Country, and because it has assumed a new importance in the light of the social and political developments which have taken place since the War. The emergence of new political parties in the country, and of groups in parliament has altered old alignments in more directions than one. In the position of Governor-General the many exceptional qualities which have given to English life in politics its enduring traditions are required in equal measure with

former years. The need of wise and helpful counsel is perhaps greater than ever. Political experience in the widest sense of the term cannot fail to be invaluable, but in the somewhat critical frame of mind of the electorate and of the parties in parliament, party political affiliations of too marked a character would, I greatly fear, be certain to create embarrassment.

I have no hesitation in saying that I believe Lord Willingdon enjoys in very special measure the qualities and qualifications for the high office of Governor-General to which I have specially referred, and which I believe to be so all important, particularly at the present time. My view I believe is generally shared by citizens of Canada who had the pleasure of meeting Lord Willingdon during his recent brief visit to Canada.

This conclusion does not imply any lack of appreciation of the very notable qualifications of all the other gentlemen whose names have been mentioned in this connection. I have no doubt that each of them is well qualified from many points of view. With respect to Lord Willingdon, however, I feel that I can express a preference with perfect confidence. Of the types mentioned in your letter he belongs to the one which I am sure would be most generally approved, and in the existing circumstances his age would, I believe, be regarded as an advantage rather than otherwise. I can assure you that his appointment would meet with the cordial approval of the Government and be most acceptable to the country. That Lady Willingdon would be equally welcomed by the people of the Dominion I have not the least doubt.

Again may I say that it is with great diffidence that I venture to express my opinion in this all important matter. Had I the slightest misgiving with respect to Lord Willingdon's suitability for the post, I should be quick to mention it, as I have been ready to point out what I consider to be all important considerations. I shall be happy, indeed, if the preference I have expressed should commend itself to His Majesty, to yourself, and to the Secretary of State for Dominion Affairs.

With kindest regards etc.

W. L. MACKENZIE KING

6.

*Le secrétaire aux Dominions au Gouverneur général*

*Dominions Secretary to Governor General*

TELEGRAM

London, June 7, 1926

CONFIDENTIAL. Following announcement will be published here in the morning papers of Wednesday. Begins. His Majesty has been graciously pleased to approve of the appointment of Viscount Willingdon, G.C.S.I., G.C.I.E., G.B.E., to be Governor General of Canada in succession to General Lord Byng of Vimy, G.C.B., M.V.O., whose term of office will shortly expire. Ends.

## 7.

*Le Gouverneur général au secrétaire aux Dominions*  
*Governor General to Dominions Secretary*

PARAPHRASE OF TELEGRAM

Ottawa, June 30, 1926

PRIORITY. SECRET. As I have already informed you Mr. Mackenzie King asked me grant him a dissolution and I refused. Thereupon he resigned and I asked Mr. Meighen to form a Government which he has done. This constitutional or unconstitutional act of mine seems to resolve itself into these salient features. A Governor General has the absolute right of granting or of refusing a dissolution. A decision to refuse is a very dangerous one as it embodies the rejection of the advice of accredited Minister which is the bedrock of constitutional government. Therefore, in nine cases out of ten a Governor General should take the advice of the Prime Minister on this as on other matters. But if the Governor General considers the advice offered to be wrong and unfair and not for the welfare of the people it behoves him to act in what he considers the best interests of the country.

This is naturally the point of view I have taken and which I expressed in my reply to Mr. King. Text of reply is being telegraphed separately.

It will be observed that the letter in question is an acknowledgment of a letter from Mr. King (the text of which is also being telegraphed) appealing to me to consult the Imperial Government. While recognising to the full the help that this course might afford me, I flatly refused telling Mr. King that to ask advice from London, where Canadian conditions were not as well known as they were to me, was to put the British Government in the unfortunate position of having to offer a solution which might give the Canadian people that feeling of participation in their politics which is to be strongly deprecated.

It seems to me that there was one person and one alone who was responsible for decision and that person was myself. If the Imperial Government were involved I should feel that the relationship of the Dominion to the old country would be liable to be seriously jeopardized whereas any incompetent and unwise action of a Governor General can only involve himself.

I am glad to say that I was able to maintain a friendly feeling with my late Prime Minister to the end. I should have offered my resignation at once had it been otherwise. This point of view has been uppermost in my mind ever since Mr. King determined (against my private advice) on retaining office last November. It has not been always easy but it was imperative; a Governor General and a Prime Minister could not allow a difference of point of view to wreck their relationship without the greatest detriment to the country. Mr. King whose bitterness was very marked (? on Monday) will probably take a very vitriolic line against myself, that seems only natural. I have to await the verdict of history to prove that the course I adopted was a wrong one and this I do with an easy conscience convinced that whether right or wrong I

have acted in the interests of Canada and have implicated no one else in my decision.

There is only one thing I have to add and that is that at our last three interviews I appealed to Mr. King not to put the Governor General in the position of having to make a controversial decision. Mr. King refused and I did not see what else I could do.

8.

*Le secrétaire aux Dominions au Gouverneur général*  
*Dominions Secretary to Governor General*

PARAPHRASE OF TELEGRAM

London, July 1, 1926

PERSONAL AND SECRET. Your Secret telegram of 30th June. I have read with the greatest interest your telegram and your correspondence with Mr. Mackenzie King. I am exceedingly sorry that it should have fallen to your lot to have to deal with so delicate and difficult a situation. I cannot of course express any opinion on your action but I can state that I unreservedly concur in the view which you took of the suggestion that you should refer to me before deciding on the request for a dissolution. Clearly the matter is one concerning Canadian internal affairs in which Ministers here could not take it upon themselves to intervene. I may say that had you referred to me I could only have replied on similar lines to the statements with regard to the political situation in New South Wales which I made in the House of Commons on 25th March—viz, that in my view it would not be proper for the Secretary of State to issue instructions with regard to the exercise of his constitutional duties to a Governor.

AMERY

9.

*Le secrétaire, Gouverneur général, au bureau du Gouverneur général*  
*Secretary, Governor General, to Governor General's Office*

TELEGRAM

Quebec, September 29, 1926

His Excellency Lord Byng sailed Empress of France at 4 p.m. to-day.

SLADEN

10.

*Le secrétaire aux Dominions au Gouverneur général*  
*Dominions Secretary to Governor General*

TELEGRAM

London, November 5, 1926

IMMEDIATE. PRIVATE AND PERSONAL. SECRET. At meeting of Lord Balfour's Committee on Inter-Imperial Relations on 4th November Mackenzie



King brought up question of Governors General ceasing to be the channel of communication between the Dominion Governments and ourselves.<sup>1</sup> His main argument was that present arrangement was not in accordance with modern conception of Governor General as representative of the King, and tended to obscure Governor General's real position and create misunderstanding by suggesting that he was still in some sense the Agent of the British Government. It was not very clear what procedure as regards future channel of communication was contemplated by Mackenzie King but I imagine it would be that of direct communication from the Dominion department dealing with external affairs to Dominions Office for all matters not already dealt with as from Prime Minister to Prime Minister. It was fully recognized that the Governor General should continue to see all communications of importance passing by the new channel and indeed by any other channel e.g. High Commissioners and you would I presume regard it as essential that any such change would have to be accompanied by some definite understanding as to Governor General being kept fully informed on Cabinet business and public affairs generally as His Majesty the King is here.

Mackenzie King further pointed out that apart from question of channel of documentary communication there is really no oral communication today of British Government's views and no representation of British interests as such the Governor General no longer being the recipient of instructions on policy and still less free to regard himself as champion of specifically British interests. His conclusion was that in some Dominions at any rate there might be great practical advantage in the establishment of some office which would be in effect that of High Commissioner for Great Britain.

Position and functions of such a British High Commissioner in a Dominion would of course need very careful thought. He would naturally have under him trade commissioners and any migration representatives we may appoint as well as necessary assistance on general policy questions. Mackenzie King's idea of his main task is that it would be one which by the very circumstances of his position, is difficult if not impossible for Governor General viz., to interpret to the Dominion Government and, where necessary, to press upon them views of Government here, and generally to represent to Dominion public standpoint of Great Britain.

Questions raised were reserved by British representatives on Committee for discussion by Cabinet. This will take place next Wednesday and I should like to know before then what your views would be on first proposal, which received general support except from New Zealand and Newfoundland, and what you think of second which was also received in principle with similar favour though it did not appear that the matter was regarded as one on which early action was contemplated in all cases. This telegram is being sent to all Governors General.

<sup>1</sup> Document 121.



11.

*Le Gouverneur général au secrétaire aux Dominions*  
*Governor General to Dominions Secretary*

TELEGRAM

Ottawa, November 8, 1926

IMMEDIATE. PRIVATE AND PERSONAL. SECRET. I agree with Mackenzie King's proposal as contained in your telegram of 5th November and feel that appointment of High Commissioner would make my position as Governor General more satisfactory and would create definite appointment of officer representing the British Government in Canada, a position which King correctly states is, under the present system, impossible for me to fill. I should certainly expect to see all important communications passing between the Dominion Government and the High Commissioner and to be kept fully informed on Cabinet business and public affairs by the Prime Minister and his Cabinet colleagues. Consider too that it should be clearly understood that I should have full liberty to write private letters to the Secretary of State from time to time. My letter of 5th November to you in regard to Trade Commissioner is interesting having regard to this proposal for it was written before I received your telegram.

You appear to suggest from your telegram that King's proposal can be taken in two parts. To my mind it must stand as a whole. If Governor General is to cease to be the official channel of communication I consider it essential that a High Commissioner should be appointed at the same time as the Governor General's position is altered. Hope that I may have opportunity of expressing opinion individually before appointment is made. Having regard to the importance of his duties consider that he should be person with experience of Parliament and public affairs.

12.

*Le Gouverneur général au secrétaire aux Dominions*  
*Governor General to Dominions Secretary*

DESPATCH 542

Ottawa, November [16], 1926

Sir,

I have the honour to transmit, herewith, copies of an Approved Minute of the Privy Council for Canada recommending that His Majesty the King may be humbly moved to appoint the Honourable Vincent Massey as Envoy Extraordinary and Minister Plenipotentiary at Washington with the special object of representing in the United States of America the interests of the Dominion of Canada and to request that the necessary letter of credence may be issued.

I have etc.

WILLINGDON

## [PIÈCE JOINTE/ENCLOSURE]

*Décret du Conseil*  
*Order in Council*

P. C. 1780

November 10, 1926

The Committee of the Privy Council have had before them a memorandum from the Honourable James A. Robb, Acting Prime Minister, submitting that following full consideration by His Majesty's Privy Council for Canada and after consultation between the Prime Minister and Secretary of State for External Affairs of Canada and the Prime Minister, the Secretary of State for Foreign Affairs and the Secretary of State for Dominion Affairs of Great Britain, it has been considered desirable in view of the increasing range, importance and urgency of questions requiring adjustment between Canada and the United States, that the Dominion of Canada should be represented in Washington by an Envoy Extraordinary and Minister Plenipotentiary appointed by His Majesty on the advice of His Canadian Ministers to have charge of Canadian affairs, serving as the ordinary channel of communication between the Canadian and United States Governments and acting upon instructions from the Secretary of State for External Affairs of Canada and reporting to him.

The Acting Prime Minister further submits that it is not in contemplation to adopt the provision of the agreement effected in 1920 between the Government of Great Britain and the Government of Canada whereby the Canadian Minister was to be a Member of the British Embassy and to have charge, in the absence of the Ambassador, of the Embassy and of the representation of Imperial as well as of Canadian interests.

The Acting Prime Minister accordingly recommends that His Majesty the King be humbly moved to appoint the Honourable Vincent Massey as Envoy Extraordinary and Minister Plenipotentiary at Washington with the special object of representing in the United States of America the interests of the Dominion of Canada, and to issue the necessary letter of credence.

The Committee concur in the foregoing and submit the same for Your Excellency's approval.

13.

*Le chargé d'affaires britannique aux États-Unis au*  
*secrétaire d'État des États-Unis*

*British Chargé d'Affaires in United States to Secretary of State*  
*of United States*

No. 723

Washington, November 19, 1926

Sir,

Under instructions from His Majesty's Principal Secretary of State for Foreign Affairs, I have the honour to inform you that His Majesty's Govern-

ment have come to the conclusion that it is desirable that the handling of matters at Washington relating to Canada should be confided to an Envoy Extraordinary and Minister Plenipotentiary accredited to the United States Government. Such a Minister would be accredited by His Majesty the King to the President of the United States and he would be furnished with credentials which would enable him to take charge of all affairs relating to Canada. He would be the ordinary channel of communication with the United States Government on these matters.

Matters which are of Imperial concern or which affect other Dominions in the Commonwealth in common with Canada will continue to be handled as heretofore by this Embassy.

The arrangements proposed by His Majesty's Government would not denote any departure from the principle of the diplomatic unity of the Empire. The Canadian Minister would be at all times in the closest touch with His Majesty's Ambassador and any question which may arise as to whether a matter comes within the category of those to be handled by the Canadian Minister or not would be settled by consultation between them. The Canadian Minister being responsible to the Canadian Government would not be subject to the control of His Majesty's Ambassador nor would His Majesty's Ambassador be responsible for the Canadian Minister's actions.

In communicating to you these proposals, which His Majesty's Government trust will promote the maintenance and development of cordial relations between the British Empire and the United States, I have been instructed to express the hope that the United States Government will concur in the appointment of a Canadian Minister at Washington on the footing I have indicated above. As regards questions such as the precedence to be attributed to the Canadian Minister or any other points which the United States Government may desire to raise in connection with the appointment, His Majesty's Government will await the views of the United States Government.

I have etc.

H. G. CHILTON

14.

*Le secrétaire d'État des États-Unis au chargé d'affaires britannique  
aux États-Unis*

*Secretary of State of United States to British Chargé d'Affaires  
in United States*

No. 51

Washington, November 20, 1926

Sir,

I have the honor to acknowledge the receipt of your note No. 723 of November 19, 1926, in which, under instructions from His Majesty's Principal Secretary of State for Foreign Affairs, you advise me that His Majesty's Government have come to the conclusion that it is desirable that the handling

of matters at Washington relating to Canada should be confided to an Envoy Extraordinary and Minister Plenipotentiary to be accredited by His Majesty the King to the President of the United States, and express the hope that the Government of the United States will concur in the appointment of a Canadian Minister at Washington on the footing indicated in your note.

In reply I take pleasure in saying that the appointment by His Majesty the King of an Envoy Extraordinary and Minister Plenipotentiary, who will be furnished with credentials which would enable him to take charge of all affairs relating to Canada, and who will be the ordinary channel of communication with the Government of the United States on these matters, is entirely acceptable to the Government of the United States, and that it will be agreeable to the President to accord him formal recognition at the convenience of His Majesty the King and the Government of Canada.

Note is taken of the arrangements outlined in your note under which the appointment would be made, as well as of your statement that as regards questions such as precedence to be attributed to the Minister or any other points which the Government of the United States may desire to raise in connection with the appointment, His Majesty's Government will await the views of the Government of the United States.

Accept etc.

FRANK B. KELLOGG

## 15.

*Lettre de créance*<sup>1</sup>

*Letter of Credence*<sup>1</sup>

George, by the Grace of God, of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas King, Defender of the Faith, Emperor of India, etc., etc., etc.,

To the President of the United States of America, Sendeth Greeting: Our Good Friend!

We have judged it expedient to confer the rank of Envoy Extraordinary and Minister Plenipotentiary upon Our Trusty and Well-beloved the Honourable Charles Vincent Massey, Member of Our Privy Council of Canada, with the especial object of representing in the United States of America the interests of Our Dominion of Canada.

We request that You will give entire credence to all that Mr. Massey may represent to You in Our name, especially when he shall assure You of Our esteem and regard, and of Our hearty wishes for the welfare and prosperity of the United States of America.

<sup>1</sup> Le ministre a présenté ses lettres de créance au président des États-Unis le 18 février 1927.

<sup>1</sup> The minister presented his credentials to the President of the United States on February 18, 1927.

And so We commend You to the protection of the Almighty.

Given at Our Court of Saint James, the Seventh day of December in the Year of Our Lord One thousand Nine hundred and Twenty-six, and in the Seventeenth Year of Our Reign.

Your Good Friend,

GEORGE R. I.

16.

*Le secrétaire aux Dominions au Gouverneur général*  
*Dominions Secretary to Governor General*

TELEGRAM

London, December 24, 1926

CONFIDENTIAL. United States Ambassador has verbally intimated to the Foreign Office, on the instructions of his Government, intention of the President of the United States to appoint United States Minister at Ottawa and Dublin, in view of the appointment of Ministers at Washington to represent the interests of Canada and the Irish Free State, and has enquired whether appointment would be agreeable, and if so, to whom credentials should be addressed and to whom presented.

Should be grateful for early expression of your Ministers views on proposed appointment at Ottawa. As regards credentials, we suggest most appropriate procedure would be that they should be addressed to His Majesty The King and presented to the Governor General of Canada as His Majesty's representative.

Similar message sent to Dublin and this telegram repeated to other Dominions.

17.

*Le Gouverneur général au secrétaire aux Dominions*  
*Governor General to Dominions Secretary*

TELEGRAM

Ottawa, December 28, 1926

CONFIDENTIAL. Your telegram Confidential December 24th regarding proposed appointment United States Minister at Ottawa. My Ministers have learned with much satisfaction of the intention of the President of the United States to appoint a United States Minister at Ottawa. Such an appointment would be entirely agreeable. As to credentials, my Ministers concur in the suggestion that the most appropriate procedure would be that they should be addressed to His Majesty the King and presented to the Governor General of Canada as His Majesty's representative.



18.

*Mémoire du sous-secrétaire d'État aux Affaires extérieures  
au Premier ministre*

*Memorandum from Under-Secretary of State for External Affairs  
to Prime Minister*

Ottawa, December 28, 1926

Attached is draft cable<sup>1</sup> re: system of communications. I had a full discussion on the situation with Mr. Osborn as to how arrangements for transfer could be made.

After further consideration, I am inclined to think it would be preferable to wait until a later date to put a new plan into practice. Among the considerations in favour of a later date, are the following:

1) The desirability of discussing the whole proceedings of the Conference in Parliament and securing approval before any changes are introduced.

2) I doubt whether it would be possible for the Dominions Office to institute a new procedure by January 1st, particularly as it would be necessary to advise the Embassy at Washington and all Governors and Ministers abroad to communicate with the Secretary of State for External Affairs instead of the Governor General. From the point of view of our own Department, it would be helpful to have more time to consider whether increase of staff would be necessary to take care of the coding, decoding, ciphers, etc., or whether it would be considered desirable to take over part of the Governor General's staff.

3) The question also arises how far it is planned to use the High Commissioner as the channel of communications.

If the relations between the British and Canadian Governments come in time to approximate those between distant countries, all communications instead of being from Government to Government would go from each Government to its representative in the other country. Probably for the present it would be best to continue to send direct to the Dominions Office replies to its communications to us, using the High Commissioner's Office to put forward matters in which we have taken the initiative or to supplement our communications to the Dominions Office. The question is one, however, which will require consideration.

The chief consideration in favour of an immediate change seems to be the desirability of avoiding any continuance or revival of the practice of regarding the Governor General as an agent of the Dominions Office. In view, however, of yesterday's discussion, this danger does not seem imminent.

O. D. S[KELTON]

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<sup>1</sup> Voir document suivant.

<sup>1</sup> See next document.

19.

*Le Gouverneur général au secrétaire aux Dominions*  
*Governor General to Dominions Secretary*

TELEGRAM

Ottawa, December 29, 1926

My Ministers have now considered the conclusion arrived at in the Imperial Conference as to the official channel of communication between His Majesty's Government in Great Britain and His Majesty's Dominion Governments.

My Ministers consider it advisable to institute the procedure of direct communications between Government and Government, recommended in the Conference discussion, as soon as possible. It is understood that this would imply that cable or postal communications from His Majesty's Government in Great Britain to His Majesty's Government in Canada would normally be directed by the Secretary of State for Dominion Affairs to the Secretary of State for External Affairs and that communications from His Majesty's Government in Canada for His Majesty's Government in Great Britain would be directed by the Secretary of State for External Affairs to the Secretary of State for Dominion Affairs or to the High Commissioner for Canada in London as circumstances indicate. It is also understood that the practice of direct communication between Prime Ministers, as occasion requires, is to continue. Provisions as to transfer of ciphers and codes would also require consideration. Arrangements will be made for supplying me with copies of all documents of importance.

My Ministers would be pleased to learn what would be the earliest date upon which it would be convenient for His Majesty's Government in Great Britain to begin the new system.

20.

*Le secrétaire aux Dominions au Gouverneur général*  
*Dominions Secretary to Governor General*

TELEGRAM

London, January 22, 1927

Your telegram of December 29th. Channel of communication between H. M. Government in Great Britain and in Canada. We agree that the effect of the change of procedure, contemplated in Section 4 (b) of the Report of the Inter-Imperial Relations Committee, would be as described in your telegram and we shall be glad to arrange accordingly. As regards date of initiating the new procedure we would hope, so far as official communications from here, that it will be possible to put the new procedure into operation on the same date in the case of all Dominions which desire the change.

We have not yet heard the views of any other Dominion and we had not expected, in any case, to hear from Australia and New Zealand pending the return of respective Prime Ministers. We have therefore thought it desirable,

in the first instance, to report your telegram to other Dominion Governments and ask them whether, in the event of their desiring the proposed change to be made, they have any special views as to the date for giving effect to it. There are various details which will require adjustment, ...[?] in connection with the supply of codes and cyphers, arrangements for transmission and delivery of telegrams, and adoption of the new procedure in the case of communications from authorities outside of this country, such as—H. M. Representatives in Foreign Countries, Governments of Colonies and Naval authorities, and settlement of these will take some time. In these circumstances it might perhaps be generally convenient if the date fixed were July 1st, and in communicating with other Dominions I am mentioning this as possible date.

21.

*Le secrétaire aux Dominions au Gouverneur général*  
*Dominions Secretary to Governor General*

TELEGRAM

London, February 3, 1927

CONFIDENTIAL. Your telegram December 28th. Note received from the United States Ambassador states that President of the United States of America is desirous of appointing as Envoy Extraordinary and Minister Plenipotentiary in Dominion of Canada the Honourable William Phillips, at present United States Ambassador Extraordinary and Plenipotentiary to Belgium, and enquiring whether appointment will be acceptable to His Majesty the King. According to biographical statement enclosed in the note, Phillips before his appointment to his present post has served in the United States Legation at Peking; as Chief of Division of Far Eastern Affairs in the Department of State; as Secretary of Embassy in London; as Third Assistant Secretary of State; as Assistant Secretary of State; as Envoy Extraordinary and Minister Plenipotentiary to the Netherlands and Luxembourg, and as Under Secretary of State. Please telegraph as soon as possible whether this appointment would be agreeable to the Government of Canada as the United States Embassy have asked for an early reply.

22.

*Le Gouverneur général au secrétaire aux Dominions*  
*Governor General to Dominions Secretary*

TELEGRAM

Ottawa, February 5, 1927

CONFIDENTIAL. Your telegram February 3rd, stating that President of United States desires to appoint the Honourable William Phillips as Envoy Extraordinary and Minister Plenipotentiary in the Dominion of Canada. My Government has pleasure in giving the assurance that this appointment would be most agreeable to it.

23.

*Décret du Conseil*  
*Order in Council*

P.C. 305

February 21, 1927

The Committee of the Privy Council on the recommendation of the Secretary of State for External Affairs, advise that in view of the appointment of a Minister Plenipotentiary and Envoy Extraordinary to Washington, Order in Council P.C. 1711 approved on the 27th May, 1921, appointing Mr. M. M. Mahoney as Agent in Washington of the Department of External Affairs, be cancelled as from the formal opening up of the Legation of the Dominion of Canada in Washington, namely the 18th February, 1927.

24.

*Le secrétaire aux Dominions au Gouverneur général*  
*Dominions Secretary to Governor General*

DESPATCH 121

Downing Street, February 22, 1927

My Lord,

I have the honour to transmit to Your Excellency, for the information of your Ministers, the accompanying copies of a Circular despatch to His Majesty's Representatives abroad, on the subject of Section VI, Sub-Section V (e) of the Summary of Proceedings of the Imperial Conference, 1926,—Channel of Communication between Dominion and Foreign Governments.

I have etc.

L. S. AMERY

[PIÈCE JOINTE/ENCLOSURE]

*Le secrétaire aux Affaires étrangères britannique aux*  
*Représentants britanniques*  
*British Foreign Secretary to British Representatives*

CIRCULAR DESPATCH

Foreign Office, February 9, 1927

CHANNEL OF COMMUNICATION BETWEEN DOMINION AND FOREIGN  
GOVERNMENTS

Sir,

I desire to draw your Excellency's particular attention to Section VI, Sub-Section V (e), of the Summary of Proceedings of the Imperial Conference enclosed for your information in my circular despatch dated the 13th December, 1926 (T 15333/5885/384).

2. You will observe that in cases other than those where Dominion Ministers are accredited to the Heads of foreign States it was agreed that it was very desirable that the existing diplomatic channels should continue to be used, as between the Dominion Governments and foreign Governments, on matters of general and political concern.

3. It was further agreed during the Conference, although it is not stated in the Summary of Proceedings, (i) that by way of exception complimentary messages of congratulation or messages of condolence could well be telegraphed from Government to Government, and not necessarily through diplomatic channels; and (ii) that no change should be made in the present practice in relation to negotiations in connection with commercial and technical matters between the Dominions and foreign countries.

4. The effect will be that, in cases where action is not taken by a Dominion Government direct in accordance with paragraph 3 (i) or 3 (ii), or where there is no Minister of the Dominion accredited to the Head of the State, the instructions of the Dominion Governments for action at a foreign capital will continue to pass through the Foreign Office.

5. When one of His Majesty's Representatives abroad acts as the result of a request from, and in the name of, a Dominion Government, he should state that he is acting on behalf of His Majesty's Government in that Dominion.

6. As regards the use of the phrase "His Majesty's Government in Great Britain" in communication to foreign Governments, &c., the phrase should always be employed when there is any risk that the use of the phrase "His Majesty's Government" alone would create the impression that the communication was made on behalf of one or more of the Dominions or India as well as on behalf of His Majesty's Government in Great Britain. It should also be used when there are references to the Government of a Dominion in the same document. It may sometimes be convenient to speak of "His Majesty's Governments in Great Britain and Canada" (or other Dominion) when the two Governments are referred to together.

7. The correct phrases to be employed in referring to Governments of the Dominions and India are as follows:

His Majesty's Government in Canada.

His Majesty's Government in the Commonwealth of Australia.

His Majesty's Government in New Zealand.

His Majesty's Government in the Union of South Africa.

His Majesty's Government in the Irish Free State.

His Majesty's Government in Newfoundland.

The Government of India.

I am etc.

AUSTEN CHAMBERLAIN



25.

*Le sous-secrétaire d'État adjoint aux Dominions au  
sous-secrétaire d'État aux Affaires extérieures*  
*Assistant Under-Secretary of State for Dominions to  
Under-Secretary of State for External Affairs*

Downing Street, March 19, 1927

My dear Skelton,

We recently had an enquiry from the Department of External Affairs at Dublin whether it was possible to obtain from the Foreign Office the full details of the customary ceremonial in London when a foreign representative presents his credentials to the King. The Foreign Office suggested that the best course would be to send to the Department of External Affairs a copy of the Regulations approved by His Majesty for observance when a new foreign minister is received, and a reply was sent to Dublin accordingly. I enclose a copy of the Regulations referred to.

The question presumably was raised in connection with the appointment of a United States Minister at Dublin and, as it seemed possible that the information given might be of use in connection with the appointment of the United States Minister at Ottawa, we thought that you might be interested to have it.

Yours sincerely,

E. J. HARDING

[PIÈCE JOINTE/ENCLOSURE]

*Mémoire du Foreign Office*

*Memorandum by Foreign Office*

#### RECEPTION OF A FOREIGN MINISTER PRESENTING CREDENTIALS

The Minister drives to the Grand Entrance in his own carriage. He is met at the Grand Entrance by the Marshal of the Diplomatic Corps, and conducted to the Hall, where he meets the Master, or Deputy Master, of the Household, and is by him taken to the Bow Room.

Here he meets the Permanent Under Secretary of State, the Lord in Waiting, the Groom in Waiting, and the Equerry in Waiting.

The Under Secretary of State having taken His Majesty's commands, the Minister is conducted by him and the Lord in Waiting to the Presence, and announced by the Marshal of the Diplomatic Corps.

The Lord in Waiting and the Marshal of the Diplomatic Corps withdraw.

At the conclusion of the Audience, the Minister is conducted to the Hall by the Master of the Household, and to his carriage by the Marshal of the Diplomatic Corps.

LEVÉE DRESS.

26.

*Le sous-secrétaire d'État aux Affaires extérieures au  
sous-secrétaire d'État adjoint aux Dominions*

*Under-Secretary of State for External Affairs to Assistant  
Under-Secretary of State for Dominions*

Ottawa, April 8, 1927

My dear Harding,

Many thanks for your letter of March 19th containing a copy of the Regulations approved by His Majesty for observance when a new foreign minister is received. This will be extremely helpful when Mr. Phillips arrives, though I am afraid it will be necessary to improvise one or two Lords in Waiting, to say nothing of the Marshal of the Diplomatic Corps.

Yours sincerely,

O. D. SKELTON

27.

*Le sous-secrétaire d'État aux Affaires extérieures  
au ministre aux États-Unis*

*Under-Secretary of State for External Affairs  
to Minister in United States*

TELEGRAM

Ottawa, May 19, 1927

Please advise Mr. Phillips most convenient time arrival June first would be by Canadian National arriving here eleven fifty-five standard or twelve fifty-five Ottawa time. Prime Minister, Under-Secretary, Governor General's Secretary and Consul-General will meet train. Prime Minister wishes Mr. Phillips to join him at lunch Laurier House immediately and His Excellency the Governor General will receive him at Government House at three quite informally. Will be pleased to place one of Minister's cars at his service. Please advise what other members in party.

28.

*Le ministre aux États-Unis au secrétaire d'État  
aux Affaires extérieures*

*Minister in United States to Secretary of State for External Affairs*

TELEGRAM

[Washington,] May 19, 1927

Your telegram 19th May information has been conveyed to Mr. Phillips. He will arrive 1st June by Canadian National at 12.55 Ottawa time as suggested and will be pleased to lunch with Prime Minister at Laurier House. As regards procedure reception by Governor General I understand that State Department and others here would not understand reason for any departure from procedure usually followed when U.S. Ambassadors and Ministers present credentials. On such occasions Envoys to be presented wear Evening Dress as this is prescribed uniform for American Diplomats and is accompanied by members Staff similar attire. From what I have heard very important that such details should be observed. Mr. Phillips plans to arrive in Ottawa in Morning Coat and silk Hat and assumes there will be sufficient time after lunch to change to Evening Dress and arrive Government House at three. Mr. Phillips will be accompanied to Government House by two Secretaries who will have arrived in advance and will stay Chateau Laurier. Mrs. Phillips will not be with him on this visit to Ottawa. Further telegram Mr. Phillips information should arrive before Saturday morning my letter<sup>1</sup> on above subject should reach you tomorrow.

29.

*Le sous-secrétaire d'État aux Affaires extérieures  
au ministre aux États-Unis*

*Under-Secretary of State for External Affairs  
to Minister in United States*

TELEGRAM

Ottawa, May 20, 1927

Your telegram May 19th regarding arrival Mr. Phillips. Information as to other members of party noted. We should be glad to have names of secretaries when available. As regards uniform it was not intended in statement that Governor General would receive him at Government House quite informally to imply informal dress. His Excellency remarked yesterday he would probably wear frock coat and it is quite understood that United States Minister will

<sup>1</sup> Non reproduite. La lettre, datée du 18 mai 1927, contenait la copie d'un mémoire sur les formalités en vigueur à Washington pour la présentation des lettres de créance d'un ministre.

<sup>1</sup> Not printed. The letter, dated May 18, 1927, enclosed a copy of a memorandum on the procedure followed in Washington on the presentation of credentials by a minister.

follow prescribed uniform of evening dress. It is possible it may be more convenient to set hour for reception at Government House at 3.30 or four but that will be intimated later. In any case it can be arranged to make necessary change at Laurier House before proceeding to Government House. His Excellency and Prime Minister are in Toronto until Tuesday.

30.

*Le ministre aux États-Unis au sous-secrétaire d'État  
aux Affaires extérieures*  
*Minister in United States to Under-Secretary of State  
for External Affairs*

PRIVATE AND CONFIDENTIAL

Washington, May 20, 1927

My dear Dr. Skelton,

I have received your cipher telegram of May 20th, with regard to procedure to be followed on the occasion of the presentation by Mr. Phillips of his Letters of Credence to the Governor-General.

I am afraid that in my telegram of May 19th to which this is a reply, I gave the impression that the question of "formal or informal" applied to the matter of dress only. This is of course involved but your telegram clears up any misunderstanding on this point.

I think the question of procedure can be best settled if you would be good enough to send me as soon as possible, a full memorandum covering complete detailed arrangements for the ceremony. This information I will communicate to Mr. Phillips who is anxious to have the full information as to the procedure to be followed. From what I understand here, there is no question that the procedure on June 1st should be of a distinctly formal nature not only as regards dress, but as to the entire ritual to be followed, otherwise the authorities here will not understand the departure from the normal usage governing such an occasion and an unfavourable impression will undoubtedly be created.

Mr. J. P. Moffatt, Secretary of the new American Legation in Ottawa will present to you shortly after his arrival on the 27th of May, a copy of the address which his Minister will read to the Governor-General when he presents his Letters on the First of June. This, which is in accordance with established usage, is for the use of His Excellency in the preparation of his own address in reply.

I note your request for the names of the members of Mr. Phillips' staff, three or four in number, who will accompany him to Government House. This information I cannot obtain before Monday when it will be sent you forthwith.

I have inquired as to how Mr. Phillips should be addressed in correspondence and I have been informed from the State Department that in his case the title "Honourable" should be used. This I pass on for the information of your Department.

Yours sincerely,

VINCENT MASSEY

31.

*Le sous-secrétaire d'État aux Affaires extérieures  
au ministre aux États-Unis*

*Under-Secretary of State for External Affairs  
to Minister in United States*

PRIVATE AND CONFIDENTIAL

Ottawa, May 23, 1927

My dear Mr. Massey,

I am in receipt this morning of your letter of May 20 regarding the procedure to be followed on the presentation by Mr. Phillips of his letters of credence.

The use in my telegram of May 19 of the words "quite informally" was unfortunate, though it has unduly alarmed the guardians of propriety in the State Department. I was quoting His Excellency's words with reference to the procedure he intended to follow when the new Minister was introduced to him, and the phrase was used relatively to the procedure followed on presentation to the King. His Excellency and I had gone through the memorandum which I had secured from the Foreign Office in this respect, and had concluded that it was obviously unsuited to Canadian purposes, and that it would be pretentious to attempt to follow it verbatim. There was no thought of not providing in detail for the conveyance and introduction of the Minister and his staff. I am sorry I used these words, which out of their spoken context seem to have given a wrong impression, but I think I could have assumed that, even if the United States State Department might fear that the Viscount Willingdon, formerly Governor of Bombay and Governor of Madras, would fail to see that the ceremony was carried through with all due propriety and respect, at least the Canadian Legation would have taken it for granted.

I had discussed with His Excellency before his departure for Toronto the procedure to be followed. The final details will be settled upon his return from Toronto on Wednesday. I shall be glad to send you a copy of it for transmission to Mr. Phillips, and I shall go over the details with Mr. Moffatt when he calls. We of course have no intention of submitting it for censorship by the United States State Department. It is not considered essential that our procedure under the circumstances here should follow that of the State Department, any more than that it should follow that of the Foreign Office.



I may say that His Excellency informed me that he had obtained from the King a short message of good will which he will read to Mr. Phillips in addition to replying in the usual way to the Minister's address.

Yours sincerely,

O. D. SKELTON

P.S.

Our republican friends seem always to have been punctilious on such matters. If you have a moment to spare, look at Foster's "Century of American Diplomacy," page 32. It is doubtless a necessary preoccupation, though personally I wish more of their time might be given to such questions of diplomatic procedure as remembering that His Majesty's Government in Canada is not a branch of His Majesty's Government in Great Britain. See our note of to-day on Limitation of Naval Armaments Conference.

32.

*Le Gouverneur général au secrétaire aux Dominions*

*Governor General to Dominions Secretary*

DESPATCH 220

Ottawa, June 2, 1927

Sir,

I have the honour to enclose, herewith, for transmission to His Majesty the King, letters of credence which were handed to me yesterday by the Honourable Mr. William Phillips, on his appointment as Minister Plenipotentiary and Envoy Extraordinary of the United States of America to Canada.

I delivered to Mr. Phillips the informal and personal message from His Majesty as contained in your Secret and Personal telegram to me of April 30th.

I have etc.

WILLINGDON

[PIÈCE JOINTE/ENCLOSURE]

*Lettre du Créance*

*Letter of Credence*

Calvin Coolidge, President of the United States of America.

To his Majesty George V, of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, King, Emperor of India, etc. etc. etc.

Great and Good Friend:

I have conferred the rank of Envoy Extraordinary and Minister Plenipotentiary upon Mr. William Phillips a distinguished citizen of the United States with the special object of representing in the Dominion of Canada the interests of the United States of America. He is well informed of the desire of this Government to cultivate to the fullest extent the friendship which has so long existed between Your Majesty's Dominion of Canada and this country.

I, therefore, request Your Majesty to receive him favorably and to commend him to the officials of the Dominion of Canada in order that full credence may be given to what he shall say on the part of the United States of America. I have charged him to convey to you and to the Government of the Dominion of Canada the best wishes of this Government for the prosperity of the British Empire.

May God have Your Majesty in his wise Keeping.

Your Good Friend,

CALVIN COOLIDGE

Washington, March 5, 1927

33.

*Le sous-secrétaire d'État aux Affaires extérieures  
au secrétaire, Gouverneur général*

*Under-Secretary of State for External Affairs  
to Secretary, Governor General*

Ottawa, June 24, 1927

Sir,

With reference to the despatch to His Excellency from the Secretary of State for Dominion Affairs, No. 121 of the 22nd February, enclosing copies of a Foreign Office circular with regard to the channel of communication between Dominion and foreign governments, I have the honour to request that His Excellency may be humbly moved to inform Mr. Secretary Amery that for many years past, as perhaps the Foreign Office is aware, the Canadian Government has followed the practice of communicating direct with His Majesty's representatives on the American continents in matters of lesser importance not involving considerations of policy, such as e.g. the obtaining of information in regard to matters of fact. This practice was suggested by reasons of convenience; and though the communications have not taken the form of instructions to such representatives, but have been rather in the nature of requests for good offices, they may seem to be inconsistent with the plan approved at the Imperial Conference, as explained in paragraph 4 of the Foreign Office circular.

It is desired, therefore, to ascertain whether it is Mr. Secretary Chamberlain's intention that the procedure referred to in paragraph 4 should be strictly followed, or whether the practice above referred to may be continued with respect to the minor matters indicated.

I have etc.

O. D. SKELTON

34.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

DESPATCH 430

Downing Street, August 29, 1927

Sir,

With reference to the Governor General's despatch No. 250 of the 30th of June I have the honour to state, for the information of His Majesty's Government in Canada, that, in the circumstances, no objection is seen to the continuance of the present practice of direct communication between His Majesty's Representatives on the American continents and the Canadian Government in matters of minor importance not involving any considerations of policy.

I have etc.

LOVAT

for the Secretary of State

35.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM

Ottawa, November 22, 1927

CONFIDENTIAL. The Canadian Government has been considering the question of further diplomatic representation abroad. It is of opinion that it is not desirable to enter into direct diplomatic relations with any considerable number of countries for some time to come and that appointments of ministers when made should be on a reciprocal basis. It is however not desired to limit exchange of ministers to the United States alone. There are certain countries with which diplomatic relations in the near future would be very desirable. In the case of France there are many reasons for changing the status of Canadian Commissioner General to that of Minister Plenipotentiary, and our Pacific interests indicate that an exchange with Japan in the near future would be to common advantage. From informal statements there is

ground for believing that an exchange with France would meet with approval in Paris. Senator Dandurand, who sailed last week to act as Canada's representative on the December Council, will visit London and Paris on his way to Geneva. Canadian Government would be obliged if Secretary of State for Foreign Affairs could find an opportunity of discussing the situation with him during his London visit.

36.

*Le représentant, Conseil de la Société des Nations, au  
sous-secrétaire d'État aux Affaires extérieures*

*Representative, League of Nations Council, to  
Under-Secretary of State for External Affairs*

TELEGRAM

Geneva, December 4, 1927

For Prime Minister following: Your despatch November 22 to London (enjoy). I saw Friday Nov. 25 Chamberlain who was highly pleased with our Oriental policy. I explained reason for first taking contact with France. Chamberlain cordially agreed to write British Ambassador for official interview between myself and French Foreign Minister. Ambassador informed me that he had stated the object of my mission to France. Was received Dec. 1 by French Foreign Minister. Most sympathetic; adjourned answer till after cabinet meeting Saturday. Minister informed me today Geneva that French Government was in entire agreement as to opportuneness of exchange ministers between Canada and France. He expressed willingness to take first step and make formal announcement immediately if agreeable to you. Chamberlain desires to help. Asks what action you wish him to take regarding Japan. I answered that as soon as French matter settled you would communicate with him as you want to be prepared to explain your estimate policy next session.

DANDURAND

37.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM

Ottawa, December 6, 1927

CONFIDENTIAL. My telegram November 22nd regarding diplomatic representation abroad. We have learned with pleasure from Senator Dandurand of cordial cooperation of Foreign Secretary in arranging interview with French Foreign Minister. Dandurand advises us that M. Briand has informed him French Government is in entire agreement as to opportuneness of exchange and prepared to take first step and make formal announcement at any time. We have suggested that announcement should be deferred until the New Year. We have also been pleased to learn of Sir Austen Chamberlain's

comments on our proposed Japanese immigration policy and of his readiness to aid in securing exchange of Ministers between Canada and Japan. We should therefore be obliged if Foreign Secretary could inform Japanese Government that Canada desires to effect such exchange if satisfactory to Japan. This possibility discussed with former Consul General Matsunaga before his return to Japan in October; he will be in position to explain Canadian situation fully to his Government. We should also desire it to be added that Canadian Government hopes that immigration agreement can soon be concluded on basis suggested in our last communication to Consul General and that we would propose to entrust to Canadian Minister in Japan vising of passports of Japanese emigrating to Canada in accordance with agreement.

38.

*Mémorandum du sous-secrétaire d'État adjoint aux Affaires extérieures*  
*Memorandum by Assistant Under-Secretary of State for External Affairs*

Ottawa, December 13, 1927

However desirable it is that the lines to be followed in the negotiation of our treaties with foreign powers should have the approval of the Cabinet and even of the Governor-General as well, I cannot see any good reason for requiring an approved Minute of Council as the basis for advice to the King for a mere formality like the issue of Full Powers after the lines of negotiations have been settled, still less for the submission of such an approved Minute or Order-in-Council to His Majesty through the Dominions Office.

In accordance with our constitutional position as now recognized, it seems to me that the Governor-General might issue the Full Powers empowering the King's plenipotentiaries to conclude such treaties, though for the reason perhaps that it is customary for Full Powers to be signed by the actual Head of the State rather than a deputy, the plan has been adopted for their issue by the King on the usual constitutional advice of the Minister or Ministers responsible in the matter of concern, but that such advice should be submitted for approval to His Majesty's Deputy as a preliminary to its being tendered to the King seems neither necessary nor appropriate, carrying as it seems to me the implication of the old notion that the King can only be approached by his Canadian Ministers through the Governor-General. In this view I should not be inclined to forward the approved Minute of Council<sup>1</sup> to the Dominions Office, but to be content with an intimation that the advice in the matter comes from the Government as a whole, and I submit a draft of a despatch which I think would be sufficient for our purpose.<sup>2</sup>

W. H. W[ALKER]

<sup>1</sup> C.P. 2339, document 800.

<sup>2</sup> Une note marginale placée sur l'original de ce document contient la remarque suivante, «Agreed; This form should be followed in future. Dec. 13/O.D.S.»

<sup>1</sup> P.C. 2339, Document 800.

<sup>2</sup> In a marginal note on the original of this document there is the following notation "Agreed; This form should be followed in future. Dec. 13/O.D.S."



39.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM

London, December 22, 1927

CONFIDENTIAL. Your telegram 6th December, exchange of ministers between Canada and Japan. Following is draft of telegram which Secretary of State for Foreign Affairs would propose to address to His Majesty's Ambassador at Tokio. Begins. Your despatch 22nd September, No. 498. Please inform the Japanese Government confidentially that His Majesty's Government in Canada would be glad to appoint a Canadian Minister at Tokio and would welcome appointment of Japanese Minister at Ottawa. The Canadian Government discussed the question fully with M. Matsunaga, former Japanese Consul General at Ottawa, who returned to Japan in October. They hope that immigration agreement can soon be concluded on basis suggested by them to Consul General and would propose to entrust to Canadian Minister in Japan duty of giving visas to emigrants for Canada in accordance with agreement. You should telegraph views of Japanese Government.

For your personal information only. Canadian Government desire to make gentleman's agreement for mutual limitation of emigration and feel that Canadian interests in Pacific and friendly attitude which they desire to maintain with Japan makes reciprocal appointment of Minister desirable. They have also made proposal to French Government for similar reciprocal appointment in case of France. Ends.

Despatch of 22nd September from His Majesty's Ambassador referred to a call paid to him by Mr. Shu Tomii before latter left for Ottawa. Last paragraph of draft telegram is based on information given by Senator Dandurand to Sir Austen Chamberlain at an interview on 25th November. Should be glad to learn whether His Majesty's Government in Canada concur in terms of draft telegram.

40.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 1

Ottawa, January 5, 1928

CONFIDENTIAL. Your telegram 22nd December, exchange of ministers between Canada and Japan. His Majesty's Government in Canada concur fully in the terms of the proposed telegram, and desire to express appreciation of the cordial co-operation of the Secretary of State for Foreign Affairs. The only point as to which a query might be expressed is the phrase "mutual

limitation of emigration". While the Canadian Government has indicated in the course of negotiations readiness to consider limitation on a mutual and reciprocal basis, proposals at present under discussion are not on this basis. Possibly "mutual" might be omitted or phrase made to read "co-operation in limitation".

It might perhaps be added that announcement of an exchange of ministers between France and Canada is anticipated very shortly and that Canadian Government would appreciate being informed of decision of Japanese Government at earliest possible moment in order, if general agreement is reached, to make it possible to include announcement in speech from throne when Canadian Parliament opens on January 26th.

41.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM 3

London, January 9, 1928

PRIORITY. IMMEDIATE. CONFIDENTIAL. Your telegram January 5th, exchange of Ministers between Canada and France. Following telegram has been received from His Majesty's Ambassador at Paris. Begins. Ministry for Foreign Affairs states that Canadian Commissioner General in Paris has on behalf of Canadian Government expressed hope that an announcement may be made immediately respecting appointment of a Canadian Minister to Paris.

Ministry for Foreign Affairs therefore propose to issue to Press the following communique after Meeting of Ministers' Council on morning of 10th January:

A la suite de négociations engagées par la voie diplomatique après les entretiens qui ont eu lieu à Paris en décembre dernier entre Monsieur Dandurand ministre d'État et sénateur du Canada et Monsieur Briand, les gouvernements Canadien et Français ont décidé de créer une Légation du Canada en France et une Légation de France au Canada. Le Ministre de France au Canada résidera à Ottawa. [Ends.]

42.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 5

Ottawa, January 9, 1928

PRIORITY. IMMEDIATE. CONFIDENTIAL. Your telegram January ninth regarding announcement of exchange of Ministers between Canada and France.

Should be obliged if the French Minister of Foreign Affairs could be advised that the Canadian Government will issue similar announcement January 10 at time corresponding to noon in Paris.

43.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM 4

London, January 13, 1928

SECRET. His Majesty's Ambassador at Tokio has been sent your telegram January 5th, No. 1, Confidential, in the sense desired by His Majesty's Government in Canada, and he has reported that he communicated to Japanese Minister for Foreign Affairs message of Canadian Government. Former had apparently no previous knowledge of matter and states that Mr. Matsunaga, who is now at Japanese Foreign Office, except perhaps in a very general way had said nothing about it.

It was explained by His Majesty's Ambassador that his understanding was that Canadian Minister would deal with matters concerning Canada alone and not with matters generally concerning the Empire. An early reply was promised by the Japanese Minister.

It has since been reported by His Majesty's Ambassador that if Japanese Government are prepared to agree various preliminaries will still be necessary including voting of funds by Diet, so that he is doubtful whether consent will be obtained in time for Speech from Throne at Opening of Parliament of Canada.

44.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM 8

London, January 19, 1928

SECRET. With reference to your telegram 17th January, No. 11, today His Majesty's Ambassador at Tokio has telegraphed that he was informed by Japanese Minister for Foreign Affairs last night that the Government of Japan will be happy to receive a Canadian Minister in Japan and to send a Minister to Canada.

45.

*Mémorandum du sous-secrétaire d'État aux Affaires extérieures  
au Premier ministre*

*Memorandum from Under-Secretary of State for External Affairs  
to Prime Minister*

[Ottawa,] March 22, 1928

VISIT OF MR. ROY

In reply to Mr. Roy's recent enquiry as to whether he should visit Canada about April 15th, I cabled him that you considered that the Government would be freer to discuss questions with him after the termination of the session, which might be about the middle of May. Mr. Roy has telegraphed this morning "Prime Minister's suggestion right and satisfactory".

I understand from Senator Dandurand that Mr. Roy hopes that it will be possible to make the appointment of the new Minister in June rather than waiting until September. I told Senator Dandurand that there were three reasons for postponing the appointment:

(1) that it was not desired to initiate any steps in the appointment until after the end of the session, and that a certain amount of time would be required for transmission of the Order-in-Council, the return of the Full Powers from the King to Canada, and their transmission to Paris.

(2) that if it was not possible to complete the transaction by June, it would obviously be better to postpone the formal opening until September when the official world of Paris would have returned to the city.

(3) that delay might be advisable in order to get the staff in shape and to effect some economy.

Senator Dandurand stated that he did not think it desirable to postpone the appointment so long after the announcement made in January of the intention to appoint a Minister, and he added that Mr. Roy's opinion was that in order not to ruffle in any way the susceptibilities of the British Embassy in Paris, the opening should be made very quietly.

O. D. S[KELTON]

46.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

DESPATCH 134

Downing Street, April 20, 1928

Sir,

With reference to my despatch No. 93 of the 16th of March, I have the honour to state, for the information of His Majesty's Government in Canada,

that His Majesty's Ambassador at Paris has reported that on the 16th of March the French Chamber of Deputies approved without discussion the Bill to make financial provision for the establishment of a French Legation in Canada.

2. His Majesty's Ambassador adds that time was not available for the discussion of the Bill in the Senate and that its passage into law is thus postponed until after the elections.

I have etc.

L. S. AMERY

47.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM

London, April 24, 1928

SECRET AND PERSONAL. My despatch 27th March. We are now in a position to make public appointment of Sir William Clark as High Commissioner, and the following announcement will accordingly be made in press here on the morning of Thursday, 26th April. Begins. Sir William H. Clark, K.C.S.I., C.M.G., Comptroller General of the Department of Overseas Trade, has been appointed High Commissioner in Canada for His Majesty's Government in Great Britain. He will proceed to Ottawa as soon as necessary arrangements have been completed. Ends.

AMERY

48.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM

Ottawa, April 26, 1928

Your telegram April 24th announcing the appointment of Sir William Clark as High Commissioner in Canada for His Majesty's Government in Great Britain received. We have learned of the appointment with great pleasure and have every confidence that the step will prove of marked advantage in facilitating communication and cooperation between His Majesty's Governments in Great Britain and in Canada.



49.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 86

Ottawa, April 26, 1928

Your telegram April 24th with reference to the appointment of Sir William Clark duly received. We noted that the announcement was to be made in press on morning of Thursday, 26th April, and arranged accordingly for notification to Canadian press on Thursday morning. A good deal of embarrassment was caused by the fact that the news was cabled from London yesterday and appeared in the Wednesday afternoon newspapers. We have no doubt that in this case publication was unauthorized but we should be glad to be able to assure the press agencies here in future that in case of arrangements for simultaneous publication there would be no danger of premature issue at either end.

50.

*Le bureau du Gouverneur général au secrétaire, Gouverneur général  
Governor General's Office to Secretary, Governor General*

TELEGRAM

Ottawa, April 28, 1928

Following from Prime Minister. Begins. Your Excellency's wire Qualicum Beach just received. Despatch marked Secret and Personal London 24th April was received Ottawa that day and brought to my attention day following April 25th. It stated British Government now in a position to make public appointment of Sir William Clark as High Commissioner and that announcement as set forth in subsequent paragraph would accordingly be made in Press in London on morning of Thursday 26th April. Subsequent paragraph reads as follows: "Sir William H. Clark, Comptroller of the Department of Overseas Trade, has been appointed High Commissioner in Canada for His Majesty's Government in Great Britain. He will proceed to Ottawa as soon as necessary arrangements have been completed". The approval of Government of Canada was not asked nor was any approval given or appointment agreed to by Ministers in Council or myself. I communicated contents of despatch to Colleagues in Council when received, but as no approval of appointment was requested the despatch was regarded as being in the nature solely of information with respect to an appointment which rests exclusively in hands of British Government. To our surprise the announcement appeared in Ottawa Press by cable from England on afternoon of same day Wednesday 25th April just at time I communicated contents of despatch to Colleagues in Cabinet and before any chance of communicating with Your Excellency or making any announcement in our House of Commons. In fact Ottawa Press correspondents asked confirmation of report before Cabinet advised of

appointment and we declined to give confirmation. In personal letter from Amery received some days ago but not yet acknowledged he told me of probable appointment but made no request for or suggestion of approval and in cable received subsequently he asked when our House would likely be prorogued as that would have a bearing on time of appointment. I replied it would probably be end of month of May or early June and had not anticipated any announcement before that date which I expected would be subsequent to time of return of Your Excellency to Ottawa. I much hope this explanation may serve to make clear to Your Excellency the position of my Colleagues and myself in this matter. It will also explain the seeming casual reference to the appointment in my telegram of yesterday to Your Excellency. Signed Mackenzie King. Ends.

CROWDY

51.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM 80

London, May 5, 1928

Your telegram 26th April, No. 86. We greatly regret embarrassment caused by premature announcement in Canadian press. Transmission of news from this country was entirely unauthorized, and was an infringement of conditions which were expressly endorsed on the announcement when issued to the press here after 6 p.m. on Wednesday. The difference in time between Great Britain and Canada must, of course, necessarily allow a certain risk of leakage, and we have been disappointed in this instance, but I can certainly assure you that every endeavour is made here to prevent such occurrences. Formula which has been found useful here, and which it is proposed to adopt as a general rule for all notices issued from the Prime Minister's Office and Dominions Office is "not to be published in this country, Canada (or whichever Dominion is concerned) or elsewhere overseas until morning of——— local time in each case". If announcement is of general interest to all Dominions, words "or anywhere overseas" are used after "this country".

52.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM

Ottawa, May 9, 1928

SECRET. PERSONAL. Your telegram May 4th stating that it was planned that Sir William Clark should sail the end of July or beginning of August and enquiring whether this would be convenient here. His Excellency will proba-

bly be absent from Ottawa during August. The Prime Minister and most of his colleagues will definitely be absent. His Excellency and the Prime Minister consider that September 15th or thereabouts would be most suitable time. They consider it important to be here when the High Commissioner arrives. It is hoped this modification will prove convenient.

53.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM

London, May 23, 1928

SECRET. PERSONAL. Your telegram 9th May have discussed with Clark, who greatly appreciates desire expressed by Lord Willingdon and Prime Minister to be present in Ottawa when he arrives. The modification which you suggest will be quite convenient and Clark will arrange to arrive about the 15th September.

54.

*L'ambassade britannique au Japon au secrétaire d'État  
aux Affaires extérieures*

*British Embassy in Japan to Secretary of State for External Affairs*

TELEGRAM

Tokyo, June 30, 1928

Repeated to Canadian Government. Foreign Office telegram No. 152. My despatch of the 12th May. Japanese Government propose to close Consulate General at Ottawa on the 22nd July and to open Legation there on same day. As there must be some little delay before Minister is appointed, they desire to appoint present Consul General at Ottawa as First Secretary of Legation and *Chargé d'Affaires*, until arrival of Minister. Japanese Government desire to know whether Canadian Government agree. Further, Japanese Government propose giving one member of Legation staff additional Consular status. Have you any objection?

C. F. J. DORMER

55.

*Le secrétaire d'État aux Affaires extérieures à  
l'ambassadeur britannique au Japon*

*Secretary of State for External Affairs to British Ambassador in Japan*

TELEGRAM

Ottawa, July 5, 1928

Your telegram June 30th regarding Japanese Legation in Ottawa received. We should be obliged if the Japanese Government could be informed that the

proposal to appoint present Consul-General First Secretary and Charge d'Affaires and to give one member of Legation staff consular status is wholly satisfactory to Canadian Government.

56.

*Le secrétaire d'État aux Affaires extérieures au  
commissaire général en France*

*Secretary of State for External Affairs to  
Commissioner General in France*

TELEGRAM

Ottawa, July 14, 1928

CONFIDENTIAL. Prime Minister now hopes to be able to attend Assembly along with Dandurand and Dunning. If so, he will arrange to open Paris Legation in October.

57.

*Le secrétaire d'État aux Affaires extérieures au  
secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

DESPATCH 320

Ottawa, August 9, 1928

Sir,

With reference to our despatch of November 22nd, 1927, and following communications regarding further diplomatic representation of Canada abroad, I have the honour to transmit herewith, copies of an approved minute<sup>1</sup> of the Privy Council of Canada, dated August 1st, 1928, recommending that His Majesty the King, be humbly moved, on the request of His Canadian Ministers, to appoint the Honourable Philippe Roy, as Envoy Extraordinary and Minister Plenipotentiary at Paris, with the special object of representing in France, the interests of the Dominion of Canada, and to request that the necessary letter of Credence may be issued.

I would further request that a Commission be issued under the Royal Sign Manual and Signed appointing Mr. Roy, similar to that which was forwarded to us, together with your despatch of May 30th, 1928, in the case of Mr. Massey, and which has been countersigned by the Secretary of State for External Affairs of Canada and that, the letter of Credence and the Commission of appointment be forwarded to the Secretary of State for External Affairs in care of the Commissioner General for Canada in Paris.

I have etc.

O. D. SKELTON  
for the Secretary of State  
for External Affairs

<sup>1</sup> C.P. 1391, non reproduit.

<sup>1</sup> P.C. 1391, not printed.

58.

*Le secrétaire d'État aux Affaires extérieures au  
secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 181

Ottawa, August 16, 1928

IMMEDIATE. SECRET. With reference to our despatch of the 9th August No. 720 [320] requesting His Majesty to issue letters of credence to Hon. Philippe Roy, including our telegram of the 22nd November, 1927, and further correspondence regarding establishment of Canadian Legation in Paris, we should be obliged if French Government could be notified of proposed establishment and inquiry made as to acceptability of Mr. Roy, reference being made to simultaneous announcements of 10th January, 1928 and conversations of last December as to exchange of Ministers. We should be obliged if arrangements could be effected in time to permit of opening ceremonies in first week of October in Paris.

Further consideration of the form used in notifying the United States Government of the proposed establishment of the Canadian Legation in Washington leads us to conclude that some variation would be more consistent with conclusions of 1926 Conference and actual practice. It does not appear necessary to make any specific affirmation such as was contained in Mr. Chilton's note of the 19th November, No. 723, as to whether or not the arrangement affects the diplomatic unity of the Empire, and the phrasing in the preceding paragraph of his note might be taken to imply that the Canadian Minister would be excluded from dealing individually or jointly with any question affecting other parts of the Empire as well, as the multilateral pact for the renunciation of war for example. Therefore we would suggest that in this respect the following wording would be desirable:

Such a minister would be accredited by H. M. the King to the President of France and he would be furnished with credentials which would enable him to take charge of all affairs which concern H. M. Government in Canada. He would be the ordinary channel of communication with the Government of France on these matters. Matters which concern His Majesty's Governments in Great Britain or in the other Dominions will continue to be handled as heretofore by this Embassy. The Canadian Minister will be at all times in the closest touch with His Majesty's Ambassador, and any question which may arise as to the method in which any matter should be dealt with will be settled by consultation between them.

In communicating to you etc. as in Mr. Chilton's note.



59.

*Le Premier ministre au secrétaire aux Affaires étrangères par intérim*  
*Prime Minister to Acting Foreign Secretary*

Paris, August 27, 1928

My dear Lord Cushendun,

In the course of our conversation last evening, reference was made to the establishment of the Canadian Legation in Paris. In a despatch of August 15th we had suggested that in notifying the French Government of the step which is being taken, it would be desirable to use a form which we believed would be more in harmony with the conclusions of the Imperial Conference of 1926.

You indicated last evening that it would not be possible to arrange for consideration of a modification of the form used in the case of appointment to the United States in time to permit of arrangements for the opening of the Legation being concluded at the time contemplated. You intimated that if the wording used in the case of the Washington appointment were followed, it would be possible to arrange for the immediate issue of letters of credence to Mr. Roy. In the circumstances, I consider it desirable to ask that the latter course be followed, leaving to a more convenient season consideration of such modification as may be deemed advisable, by a supplementary communication if necessary, of the wording employed in the notification.

Yours sincerely,

[W. L. MACKENZIE KING]

60.

*Brevet de nomination*  
*Commission of Appointment*

GEORGE R. I.

George, by the Grace of God, of Great Britain, Ireland and the British Dominions beyond the Seas King, Defender of the Faith, Emperor of India, etc., etc., etc. to all and singular to whom these Presents shall come, Greeting:

Whereas it appears to Us expedient to nominate some Person of approved Wisdom, Loyalty, Diligence and Circumspection to represent Us in the character of Our Envoy Extraordinary and Minister Plenipotentiary at Paris with the special object of representing in France the interests of our Dominion of Canada.

Now Know Ye that We, reposing special trust and confidence in the discretion and faithfulness of Our Trusty and Well-beloved the Honourable Philippe Roy, Member of Our Privy Council for Canada, have nominated,

constituted and appointed, as We do by these Presents nominate, constitute and appoint him the said Philippe Roy to be Our Envoy Extraordinary and Minister Plenipotentiary at Paris for the purpose aforesaid. And We therefore request all those whom it may concern to receive and acknowledge Our said Trusty and Well-beloved Philippe Roy as such Envoy Extraordinary and Minister Plenipotentiary, and freely to communicate with him upon all matters which may affect the interests in France of Our said Dominion.

Given at Our Court of Saint James the Twenty-fourth day of September in the year of our Lord One Thousand Nine Hundred and Twenty-eight and in the Nineteenth Year of Our Reign.

By His Majesty's Command:

W. L. MACKENZIE KING

Secretary of State for External Affairs

61.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

DESPATCH 416

Downing Street, September 28, 1928

Sir,

With reference to your despatch No. 320 of the 9th August and connected correspondence, I have the honour to transmit, for the information of His Majesty's Government in Canada, copies of correspondence with the French Government on the subject of the appointment of a Canadian Minister in Paris.

2. The terms of the Note to the French Government of the 28th August were settled as the result of discussion in Paris between the Prime Minister of Canada and Lord Cushendun, Acting Secretary of State for Foreign Affairs.

I have etc.

L.S. AMERY

[PIÈCE JOINTE 1/ENCLOSURE 1]

*L'ambassadeur britannique en France au ministre  
des Affaires étrangères de France*

*British Ambassador in France to French Foreign Minister*

IMMEDIATE

[Paris,] August 28, 1928

Monsieur le Président,

Under instructions from Lord Cushendun, I have the honour to inform Your Excellency that His Majesty's Governments in Great Britain and

Canada have come to the conclusion that it is desirable that the handling of matters at Paris relating to Canada should be confided to an Envoy Extraordinary and Minister Plenipotentiary accredited to the Government of the Republic. Such a Minister would be accredited by His Majesty The King to the President of the French Republic, and would be furnished with credentials which would enable him to take charge of all affairs relating to Canada. He would be the ordinary channel of communication with the Government of the Republic on these matters.

2. Matters which are of Imperial concern or which affect other Dominions in the Commonwealth in common with Canada will continue to be handled as heretofore by this Embassy.

3. The arrangements proposed by His Majesty's Governments would not denote any departure from the principle of the diplomatic unity of the Empire. The Canadian Minister would be at all times in the closest touch with His Majesty's Ambassador and any question which may arise as to whether a matter comes within the category of those to be handled by the Canadian Minister or not would be settled by consultation between them. The Canadian Minister being responsible to His Majesty's Government in Canada would not be subject to the control of His Majesty's Ambassador nor would His Majesty's Ambassador be responsible for the Canadian Minister's actions.

4. In communicating to you these proposals, which His Majesty's Governments trust will promote the maintenance and development of cordial relations between the British Empire and France, I have been instructed to express the hope that the Government of the Republic will concur in the appointment of a Canadian Minister at Paris on the footing I have indicated above. As regards questions such as the precedence to be attributed to the Canadian Minister or any other points which the Government of the Republic may desire to raise in connection with the appointment the views of the Government of the Republic will be awaited.

I have etc.

W. TYRRELL

[PIÈCE JOINTE 2/ENCLOSURE 2]

*Le ministre des Affaires étrangères de France  
à l'ambassadeur britannique en France*

*French Foreign Minister to British Ambassador in France*

Paris, le 15 septembre 1928

Monsieur l'Ambassadeur,

Vous avez bien voulu me faire part de l'intention de S.M. le Roi d'accréditer auprès de M. le Président de la République un Envoyé Extraordinaire et Ministre Plenipotentiaire du Canada.

Pour répondre au désir que Votre Excellence a bien voulu m'exprimer, j'ai l'honneur de lui faire connaître que la nomination d'un Ministre Canadien à Paris rencontrerait l'entier agrément de M. le Président de la République.

Veuillez agréer etc.

P. B. DE FOUQUIERES

pour le Ministre

[PIÈCE JOINTE 3/ENCLOSURE 3]

*L'ambassadeur britannique en France au ministre  
des Affaires étrangères de France*

*British Ambassador in France to French Foreign Minister*

IMMEDIATE

[Paris,] September 19, 1928

Monsieur le Président,

In your note (Service du Protocole) of September 15th Your Excellency was so good as to inform me that the appointment of a Canadian Minister in Paris would meet with the entire approval of the President of the Republic.

2. I now have the honour, under instructions from His Majesty's Acting Secretary of State for Foreign Affairs to inform Your Excellency that His Majesty The King proposes to appoint the Honourable Philippe Roy, Member of His Majesty's Privy Council for Canada, who is at present Commissioner General for Canada in Paris, Envoy Extraordinary [and] Minister Plenipotentiary in this country for the Dominion of Canada.

3. I should be grateful if Your Excellency will inform me at your earliest convenience whether this appointment would meet with the approval of the Government of the Republic.

I have etc.

W. TYRRELL

[PIÈCE JOINTE 4/ENCLOSURE 4]

*Le ministre des Affaires étrangères de France  
à l'ambassadeur britannique en France*

*French Foreign Minister to British Ambassador in France*

Paris, le 22 septembre 1928.

Monsieur l'Ambassadeur,

Votre Excellence a bien voulu me faire part de l'intention de Sa Majesté Britannique de nommer l'honorable Philippe Roy, Membre du Conseil Privé pour le Canada, actuellement Commissaire Général à Paris, Envoyé Extraordinaire et Ministre Plénipotentiaire pour le Canada auprès du Président de la

République Française et me demander, en même temps, si ce choix ne soulèverait pas d'objections.

J'ai l'honneur de vous faire connaître que M. le Président donne très volontiers son agrément à la désignation de l'honorable Philippe Roy pour le poste de Ministre du Canada à Paris.

Veuillez agréer etc.

P. B. DE FOUQUIERES

pour le Ministre

62.

*Le conseiller en France au sous-secrétaire d'État  
aux Affaires extérieures*

*Counsellor in France to Under-Secretary of State for External Affairs*

TELEGRAM

Paris, September 29, 1928

Mr. Roy presented on Friday 28 copy of Credentials to Mr. Briand and will today Saturday at four fifteen present his letters to President Doumergue at Rambouillet.

DESY

63.

*Le sous-secrétaire d'État aux Affaires extérieures au Haut commissaire  
Under-Secretary of State for External Affairs to High Commissioner*

TELEGRAM

Ottawa, October 10, 1928

PERSONAL AND CONFIDENTIAL. Following for Prime Minister. Begins. We have received despatch Dominions Office 28th September enclosing copy of Tyrrell's note of August 28th to Briand which we assume you have regarding proposed appointment of a Canadian Minister. Irish Free State Secretary for External Affairs has this date informed Canadian Government in confidential despatch that they propose to appoint Ministers to Paris and Berlin and have asked British Government to enquire if agreeable.

It is proposed that Irish Minister should deal with all matters relating to Irish Free State. In regard to matters which affect other members of British Commonwealth in common with Irish Free State consultation would take place with British and other diplomatic representatives of Dominions if accredited. This position would accord with recommendations of Imperial Conference of 1926.

Have discussed with Mr. Lapointe who considers second paragraph in Tyrrell's letter of August 28th wholly inconsistent with Imperial Conference conclusions 1926. It is also inconsistent with first paragraph which provides Canadian Minister is to take charge of all affairs relating to Canada which must therefore include matters of interest to Canada in common with other parts of Commonwealth as well as matters of exclusive interest to Canada.



Do you not consider it advisable to discuss modification? Three possible forms might be considered, in all cases allowing first sentence of paragraph three regarding diplomatic unity to remain, but avoiding any use of term 'joint action'.

*First.* Substitute for second paragraph following modified version of our cable of August 16th. "Matters which concern His Majesty's Government in Great Britain or in other Dominions without distinct diplomatic representation will continue to be handled as heretofore by this Embassy." And in third paragraph second sentence after "arise" read, "as to the method in which any matter should be dealt with will be settled by consultation between them."

*Second.* Adopt Irish proposal above in place of second paragraph with modification of second sentence in third paragraph to correspond.

*Third.* Omit second paragraph altogether and make second sentence in third paragraph read, "The Canadian Minister would be at all times in the closest touch with His Majesty's Ambassador and any question which may arise as to how a matter of concern also to His Majesty's Government in Great Britain or the governments of Dominions without distinct diplomatic representation is to be dealt with will be settled by consultation between them."

Definite information received today that Sir Austen Chamberlain arrives Victoria October 29th and sails from Quebec November 15th, visiting Ottawa from morning November ninth to afternoon November thirteenth. [Ends.]

64.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

DESPATCH 439

Ottawa, October 24, 1928

Sir,

I have the honour to refer to an approved Minute of the Privy Council for Canada (P.C. 2169) of September 29th, 1916, a copy of which, I understand, was enclosed in a despatch No. 595 of October 10th, 1916, from His Excellency the Governor General of Canada to the Secretary of State for the Dominions [Colonies] regarding the question of direct communication between the Provincial Governments in the Dominion of Canada and His Majesty's Consuls General in the United States in cases in which it is desired to secure the arrest of fugitives from Canadian justice.

As will be observed, the second paragraph of this Minute of Council reads as follows:

The Minister, with the concurrence of the Minister of Justice, represents that he concurs in the suggestion that there should be the same speedy means of proceedings in Chicago and San Francisco as in New York, and indeed he sees

no reason why the procedure in the case of New York should not be sanctioned for any other place in the United States where it can be followed with advantage or convenience.

On November 22nd, 1916, His Majesty's Ambassador at Washington informed by despatch His Excellency the Governor General of Canada that he had "received a despatch from the Foreign Office approving the suggestion that His Majesty's Consular Officers at Chicago and San Francisco should be authorized, in connection with the preliminary steps in cases of extradition from the United States to Canada, to proceed upon the application of any officer instructed by an Attorney-General of one of the Canadian Provinces" and that "His Majesty's Consuls General at Chicago and San Francisco have been instructed accordingly".

We are now informed by His Majesty's Minister for Canada in Washington that in recent cases some doubt has arisen in the mind of His Majesty's Consul General at one or two places other than New York, Chicago and San Francisco as to whether he is in a position, without explicit instructions, properly to proceed in cases of extradition from the United States to Canada, upon the application of any officer instructed by an Attorney-General of the Canadian Provinces. In these cases application had come direct from the Provincial authorities. It is added that it might be advisable to clear up this situation and, if possible, to make the procedure uniform.

His Majesty's Government in Canada agrees with this view and, as mentioned in the second paragraph of the Minute of Council of 1916, "sees no reason why the procedure in the case of New York (Chicago and San Francisco) should not be sanctioned for any other place in the United States where it can be followed with advantage or convenience." It has no objection to this procedure being made applicable to all His Majesty's Consulates General in the United States.

I should be glad to learn whether this view is acceptable to His Majesty's Government in Great Britain.

I have etc.

O. D. SKELTON  
for the Secretary of State  
for External Affairs

65.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM 194

London, October 24, 1928

IMPORTANT. CONFIDENTIAL. My despatch 27th August, No. 357. Note has been received from the French Ambassador stating that it is desired to

appoint Monsieur Georges Jean Henri Marie Knight as French Envoy Extraordinary and Minister Plenipotentiary in Canada, and enquiring whether appointment will be acceptable to His Majesty The King. In forwarding this note the French Ambassador mentioned that Knight, who comes of a very good family, was formerly Consul, has for the last few years been Commercial Attaché in China and attended Chinese Customs Tariff Conference 1925-1926. From biographical notice in French *Annuaire Diplomatique* 1927, it appears that Knight, who was born in 1880, has served greater part of official career in Far East viz. in Consular capacity and as *Chargé d'Affaires* at Bangkok, as Consul at Foochow and Commercial Attaché for Far East; that he was French Delegate Chinese Customs Tariff Revision Commission 1918, and that he was given rank of Consul General 1924.

Would appointment be agreeable to His Majesty's Government in Canada? Should be grateful for reply by telegraph as soon as possible as French Embassy anxious for early answer.

66.

*Le secrétaire d'État aux Affaires extérieures au  
secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 231

Ottawa, October 26, 1928

IMPORTANT AND CONFIDENTIAL. Your despatch No. 194 of 24th October. The appointment of Monsieur Knight as Envoy Extraordinary and Minister Plenipotentiary in Canada is wholly acceptable to His Majesty's Government in Canada.

67.

*Le Gouverneur général au secrétaire, Sa Majesté le roi  
Governor General to Secretary, His Majesty the King*

Ottawa, November 17, 1928

My dear Stamfordham,

I am enclosing to-day a letter to His Majesty from the French President containing the credentials of M. Knight, handed to me by that gentleman yesterday on his appointment as Minister for France in Canada.

As this occasion raises a point on which I should be grateful for His Majesty's instructions, I am writing to explain the position as I see it, and ask for my orders in the future, in order that I may put them down on my records for the information of those that follow me.

You may remember that on the occasion of Mr. Phillips' appointment as Minister for the U.S.A., the Credentials were sent by my Government to the

Dominions Office and handed to His Majesty by that Department. But that took place before July 1st; since that date there has been a change of procedure, for instead of all despatches and telegrams going through the Governor General's Office and from there to the Department concerned here, the two Governments now communicate direct and send copies of all communications to the Governor General.

The only communications that the Governor General receives or sends direct are those in connection with Ceremonial matters, and in these matters he communicates direct with His Majesty. I think it very important that the King's representative should jealously and firmly retain all such matters and this particularly seems one in point. I am asking you to be good enough to obtain for me His Majesty's instructions as to:

1. Whether he would like me to go on as before July 1st and send the Credentials through the Dominions Office for presentation.
2. Whether (as I much hope) he would wish me now to send the Credentials to him direct, as I am doing on this occasion.
3. Whether he would prefer that his Representative should retain the Credentials here in the Governor General's Office and merely inform him of the presentation of the Credentials when they occur.

I hope I have made myself clear and that I shall receive my instructions in due course.

Yours sincerely,

WILLINGDON

[PIÈCE JOINTE/ENCLOSURE]

*Lettre de Créance*

*Letter of Credence*

Gaston Doumergue, Président de la République Française,  
A Sa Majesté George V

Roi de Grande-Bretagne, d'Irlande, et des Territoires britanniques au-delà des Mers, Empereur des Indes.

Très Cher et Grand Ami,

Animé du plus vif désir de témoigner à Votre Majesté tout le prix que J'attache à développer les rapports de bonne amitié qui existent si heureusement entre la France et le Canada, J'ai décidé d'accréditer auprès de Votre Majesté en qualité d'Envoyé Extraordinaire et Ministre Plénipotentiaire à Ottawa, M. Knight, Georges, Jean, Henri, Marie, Chevalier de l'Ordre National de la Légion d'Honneur. Les qualités qui distinguent cet Agent Me sont garantes du soin qu'il mettra à s'acquitter de sa mission de façon à mériter Votre confiance et obtenir ainsi Mon approbation. C'est dans cette conviction que Je prie Votre Majesté de l'accueillir avec bienveillance et d'ajouter foi et



créance entière à tout ce qu'il Lui dira de Ma part, surtout lorsqu'il Vous exprimera, Cher et Grand Ami, les assurances de Ma haute estime et de Ma constante amitié. Fait à Rambouillet, le 17 octobre 1928.

GASTON DOUMERGUE  
(Contresigné) A. BRIAND

68.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM B. 135

London, December 21, 1928

CONFIDENTIAL. Following from Prime Minister to your Prime Minister. Begins. In connection with appointment of a Canadian Minister at Paris, the proposed appointment of Irish Free State Ministers at Paris and Berlin, and the contemplated similarly South African appointments at Washington and The Hague, the question has been raised as to passage previously inserted in formal notification of such appointments to foreign Governments which deals with respective functions of His Majesty's Ambassadors and Dominion Ministers. It has been suggested that this passage might in certain respects be modified, particularly having regard to developments since appointment of Dominion Ministers at Washington in 1924 and 1926. These suggestions have led to an examination of the general principles underlying relations between His Majesty's Diplomatic Representatives at a foreign Capital where there are more than one such representative. It appears to us, generally speaking, that these principles are the same as apply in relations between respective Governments in regard to foreign policy; these were enunciated in report of Inter-Imperial Relations Committee of the Imperial Conference of 1926, the guiding consideration being that while each is responsible for conduct of foreign relations falling within its own sphere, it is of fundamental importance that in matters of common concern there should be complete interchange of information and opinion both before and during any discussions with foreign Governments, coupled with the fullest possible measure of cooperation in action. These principles were very clearly expressed in a recent speech of the Prime Minister of Canada in which, according to telegraphed report, he used the following words: "The symbolical British unity was to be found in the British Crown whose security was broadly based upon the people's will. Whatever broadens this base and thereby secures more firmly the foundation upon which all Governments throughout the British Empire rested, made for British unity and its permanency, and for the peace of the world. This confident belief had impelled his Government not only to assume responsibility for all Canadian interests, but in certain countries also, to seek by consultative cooperation of its represen-



tative with British Ambassadors in foreign Capitals to bring to bear as regards the British Empire a united opinion about all matters of mutual concern”.

We are happy to think that these principles have been applied already with fortunate results in those cases where Dominion Ministers have been appointed at foreign Capitals, and it would not appear either necessary or desirable to make any detailed exposition of them to foreign Governments in notifying any proposed new appointment of a Dominion Minister at a foreign Capital. At the same time, we think that the terms of communication to be made to foreign Governments might with advantage be modified in some respects in order to make it clear that responsibility of Dominion representatives at foreign Capitals is not limited in the manner indicated in Washington formula, but that each of His Majesty's representatives has in spirit the conclusions of Imperial Conference cooperative responsibilities in all matters which are of common concern to all parts of the British Empire. The opportunity might, we think, be taken to define rather more closely what is the meaning of the phrase which has been employed to indicate the general position, namely, proposed appointment does not denote any departure from principles of diplomatic unity of the Empire.

The alterations which we have in mind are substitution for second and third paragraphs of note addressed by His Majesty's Ambassador at Paris to the French Government on the 28th August, 1928, on the subject of proposed appointment of a Canadian Minister at Paris, of a single paragraph in the following terms:

The arrangements proposed would not denote any departure from the principles of diplomatic unity of the Empire, that is to say, the principle that all His Majesty's Governments act in unison in matters which are of common concern. The (name of Dominion) Minister would be at all times in closest touch with His Majesty's Ambassador, and the best method of dealing with any questions which may arise concerning more than one of His Majesty's Governments, or all parts of the British Empire, would be settled by consultations between His Majesty's Representatives.

We hope that a wording of this kind may be found generally acceptable.  
Ends.

69.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM B. 136

London, December 21, 1928

Following from Prime Minister for your Prime Minister. Begins. It will, of course, be appreciated that the general principles described in my message of

today in connection with the appointment of Dominion Ministers at foreign Capitals presupposes continuance of system of frank and confidential interchange of information between His Majesty's Governments upon current questions of foreign affairs so as to enable consultation between them to take place, in those cases where such consultation is necessary, on the same basis as it takes place between colleagues in any one of the Governments. It seems to us that this collaboration would be helped and expedited by as free an interchange as possible, both between His Majesty's Representatives at foreign Capitals and His Majesty's Governments, of copies of communications on matters of common concern passing whether between those Representatives and Governments to which they are accredited, or between those Representatives and their own Government. This arrangement would facilitate agreement between His Majesty's Governments no less than between His Majesty's Representatives at foreign Capitals in cases where any question arose as to lines of action to be taken.

Such a frank and confidential interchange of information and views is, however, seriously hampered if consideration has to be given during its progress to possibility of its eventual publication. This matter has been considered on several occasions and I need hardly discuss it here. At the same time we appreciate that from the political point of view it is sometimes extremely awkward if part of the several parts of the Empire make demand for information on these subjects which cannot be met by publication of such correspondence. It has occurred to us that in some cases a solution of the difficulty might be found by an arrangement for publication of agreed communications recording conclusions arrived at as a result of interchange of confidential correspondence. This, of course, is a suggestion only. If idea commends itself, details would have to be worked out with reference to individual cases. Ends.

70.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM B. 137

London, December 21, 1928

CONFIDENTIAL. My telegram December 21st, Circular B. 135. Following is full text of note which following on proposals in Prime Minister's message it is contemplated should be addressed to foreign Governments in the future in notifying the proposed appointment of a Dominion Minister.

Your Excellency,

Under instructions from His Majesty's Principal Secretary of State for Foreign Affairs, I have the honour to inform you that His Majesty's Government in (name of Dominion) have come to the conclusion that it is desirable that handling of matters at (name of foreign Capital)

relating to (name of Dominion) should be confided to an Envoy Extraordinary and Minister Plenipotentiary accredited to (name of foreign country) Government.

2. Such a Minister would be accredited by His Majesty The King to (name of Head of foreign State) and he would be furnished with credentials which would enable him to take charge of all affairs relating to (name of Dominion). He would be the ordinary channel of communication with (name of foreign country) Government on these matters. The arrangements proposed would not denote any departure from principle of diplomatic unity of the Empire, that is to say, the principle that all His Majesty's Governments act in unison in matters which are of common concern. The (name of Dominion) Minister would be at all times in closest touch with Ambassador and best method of dealing with any questions which may arise concerning more than one of His Majesty's Governments or all parts of the British Empire would be settled by consultation between His Majesty's representatives.

3. In proposing establishment of a (name of Dominion) Legation which His Majesty's Governments in the United Kingdom of Great Britain, Northern Ireland and in (name of Dominion) trust will promote maintenance and development of cordial relations between British Empire and (name of foreign country) I have been instructed to express the hope that (name of foreign country) Government will concur in appointment of a (name of Dominion) Minister at (name of foreign Capital) on the footing I have indicated above. As regards questions such as precedence to be attributed to (name of Dominion) Minister or any other points which (name of foreign country) Government may desire to raise in connection with appointment, His Majesty's Government will await views of (name of foreign country) Government.

71.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM

London, December 21, 1928

PERSONAL. My telegram 21st December, Circular B. 135. Following from Sir Austen Chamberlain for Prime Minister. Begins. Diplomatic appointment. I feel confident proposals contained in Prime Minister's telegram will be quite satisfactory to you. You will see how much we have been influenced by your conversations with me, and I am very glad to have been useful in conveying your views to our Cabinet.

I seize the opportunity to send you my wife's and my own best wishes for Christmas and the New Year. Ends.

72.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

DESPATCH 4

Downing Street, January 2, 1929

Sir,

I have the honour to acknowledge the receipt of your despatch No. 439 of the 24th October relative to the question of direct communication in extradition matters between the Provincial Governments in the Dominion of Canada and His Majesty's Consuls-General in the United States, and to state that His Majesty's Government in Great Britain concur in the proposal to extend the arrangement already in force in respect of His Majesty's Consuls-General at New York, Chicago and San Francisco to all His Majesty's Consuls-General in the United States. His Majesty's Ambassador at Washington has accordingly been instructed to communicate with His Majesty's Consuls-General at New Orleans, Philadelphia and Boston in the sense desired and in doing so to make it clear to these officers that the arrangement is designed to facilitate the preliminary steps for the arrest of fugitive criminals.

I have etc.

L. S. AMERY

73.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 3

Ottawa, January 7, 1929

IMMEDIATE. URGENT. CONFIDENTIAL. Your telegram Jan. 24, 1928 and previous correspondence regarding exchange of Ministers between Canada and Japan. It is desired to ascertain whether appointment of Hon. Herbert Meredith Marler as Envoy Extraordinary and Minister Plenipotentiary in respect of Canada would be acceptable to the Government of Japan. Mr. Marler is a graduate in law of McGill University, and partner with his father Dr. Marler in the notarial firm of Marler and Marler; married 1902 Beatrice Isabel Allan, grand-daughter of Andrew Allan founder of Allan Steamship Company. Member of Parliament 1921; Chairman Parliamentary Committee on Soldiers Pensions 1922; Chairman Transportation Committee in negotiations with British West Indies 1925; Member Privy Council and member of Cabinet 1925; Treasurer National Committee for Celebration of Diamond Jubilee of Confederation 1927.

For personal reasons it is desired to learn as soon as possible whether nomination will be acceptable.

74.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 6

Ottawa, January 10, 1929

IMMEDIATE. CONFIDENTIAL. Following from Prime Minister for your Prime Minister. Begins. Diplomatic appointment. Your telegram Circular B. 135, 136 and 137 of December 21. We have noted with pleasure your concurrence in view that modification should be made of form used in notification to foreign governments of appointments of Dominion ministers, and we agree in desirability of seeking to make whatever declaration is necessary conform to spirit of 1926 Imperial Conference report. As stated in interview with Foreign Secretary, if it is considered necessary to continue making specific references in communications with foreign governments to the bearing of such appointments on diplomatic unity of the Empire now that several appointments have been made and foreign countries have learned that this step is wholly consistent with and in fact involves free interchange of information and opinion between His Majesty's several representatives on matters of common concern with a view to ensuring as far as possible similar policies, we would be prepared to retain the phrase "Arrangements proposed would not denote any departure from principle of diplomatic unity". We believe, however, addition now proposed to this sentence, instead of defining meaning more closely, would increase likelihood of misunderstanding by foreign governments.

If fourth sentence in paragraph two retained it would appear advisable to revise as follows: "His Majesty's representatives in (name of foreign country) would be at all times in closest touch and best method, etc." In last sentence in paragraph 3 reference to precedence appears unnecessary as it may be assumed that Dominion minister will have full diplomatic standing and be assigned customary precedence.

We note that revised basis is suggested in connection with future appointments. It will also be desirable to consider best method, probably by joint note from Ambassador and Minister, of indicating revision in case of existing appointments.

As to interchange of information referred to in Circular B. 136, we fully concur in desirability of as free an exchange as proves feasible, both between His Majesty's Governments and between representatives at foreign capitals. We realize that this may involve difficulties in case of eventual demands for publication and agree that solution might be found in arrangement for publi-



cation of agreed communications recording conclusions or registering a definite stage in discussion. Feasibility of this proposal might be tested in concrete case when occasion arises. Ends.

75.

*Le secrétaire, Sa Majesté le roi, au Gouverneur général*  
*Secretary, His Majesty the King, to Governor General*

Buckingham Palace, January 10, 1929

My dear Willingdon,

After a very long wait and much correspondence with the Dominions Office the following procedure has been agreed to regarding Letters of Credence, about which you wrote on November 17th.:

The Letter of Credence should, as at present, be addressed to the King.

The Letter should, as at present, be presented to the Governor General by the Minister of the foreign country.

The Governor General should forward the Letter to the Private Secretary to the King unopened, to be laid before His Majesty.

The Letter would be returned opened to the Governor General with an intimation that it had been laid before the King.

Before the Letter is returned to the Governor General two copies to be sent to the Dominions Office, one for their records and one for the Foreign Office.

I hope you will agree with the Dominions Office in thinking that the Letters should actually be sent to the King *unopened* and then returned to you, copies having been deposited in the Dominions Office and Foreign Office.

In accordance with the above procedure I now enclose the Letter of Credence of M. Knight.

Yours very sincerely,

STAMFORDHAM

76.

*Le secrétaire d'État aux Affaires extérieures au ministre*  
*des Affaires extérieures de l'Afrique du Sud*

*Secretary of State for External Affairs to South African Minister*  
*of External Affairs*

TELEGRAM 1

Ottawa, January 16, 1929

CONFIDENTIAL. With reference to telegrams from London, Circular B. 135, 136 and 137 of December 21st, regarding diplomatic appointments. We

replied on 10th January. We have since been informed by British High Commissioner here that clause regarding action in unison was inserted by British Government in an endeavour to meet your criticisms of the draft. We are therefore advising you of our views as set out in reply to London. This reply has also been communicated to Irish Free State, which had informed us of their reply of January 1st. We trust in view of pending appointments it will be possible to reach settlement shortly. Our telegram of January 10th follows . . . .<sup>1</sup>

77.

*Mémemorandum du sous-secrétaire d'État aux Affaires extérieures  
au secrétaire d'État aux Affaires extérieures*

*Memorandum from Under-Secretary of State for External Affairs  
to Secretary of State for External Affairs*

[Ottawa,] January 18, 1929

RE: APPOINTMENT OF MR. MARLER

Sir William Clark just telephoned to say that the name of Mr. Marler had been approved by the Counsellors of State acting for His Majesty and that a telegram had been sent to the British Ambassador at Tokio asking him to communicate with the Japanese Government along the lines which Sir William discussed with you this morning.

O. D. S[KELTON]

78.

*Le ministre des Affaires extérieures de l'Afrique du Sud au  
secrétaire d'État aux Affaires extérieures*

*South African Minister of External Affairs to Secretary of State  
for External Affairs*

TELEGRAM 1

Capetown, January 21, 1929

CONFIDENTIAL. Your telegram 16th January, No. 1, Confidential, regarding diplomatic appointments. I thank you very much for the information contained therein. I have this day telegraphed Secretary of State for Dominion Affairs as follows. Begins.

Confidential. No. 4. Your telegrams 21st December, Circular B. 135, 136 and 137. Following for Prime Minister from my Prime Minister. Begins. In connection with question as to the terms which should in the future be contained in the letter formally notifying to a foreign Government the desire of a Dominion Government to appoint a Minister to such, I have carefully considered proposed alterations in old form of note. I am glad to learn that

<sup>1</sup>Voir document 74.

<sup>1</sup> See Document 74.

British Government appreciates necessity for a revision of terms in which such notification is in future to be conveyed, but wish to submit that proposed alterations are inappropriate to new situation since 1926, and if adopted will not do away with objectionable features of old form.

While I am prepared in general to accepting that "the general principle underlying relations between His Majesty's diplomatic representatives at a foreign capital, where there are more than one such representative" should "generally speaking be the same as apply in relations between the respective Governments in regard to foreign policy"; and while I am prepared to give adhesion to words of the Prime Minister of Canada in Circular telegram B137 [B.135] of the 21st December, submit that not only is there no necessity for communicating formally to a foreign power those principles underlying Commonwealth co-operation, but that any such communication, especially if made by the British Government and upon an occasion as here contemplated, must inevitably have effect of bringing such foreign Government under the impression that whatever may be substituted for declaration as to status of the Dominions there still does exist an element of subordination and patronage.

This is all the more objectionable when that communication is couched in terms of an ambiguous character such as contained in phrase "the principle of diplomatic unity". This phrase is not only ambiguous in spite of explanatory words now proposed; but it dates from a time anterior to 1926, and therefore, because of its old association with doctrine of an Empire super-authority is bound to mislead and give rise to false conception of Dominion status. I am therefore of the opinion that it is highly inadvisable that any such communication should be made in note, and that all that such a note should contain is a simple and plain intimation to foreign Government concerned of the desire of the Dominion to be represented through a Minister, and a general indication as to what his functions with such Government would be.

For this reason I am of the opinion that form of note to be addressed to a foreign State should, if originating with and upon instructions by the British Government on behalf of the Dominion concerned, read as follows (assuming Union and France as the parties involved):

Monsieur le Président,

Under instructions from ( ) I have the honour to inform Your Excellency that His Majesty's Government in Great Britain has been requested by His Majesty's Government in the Union of South Africa to communicate to Your Excellency the desire on the part of His Majesty's Government in the Union that the handling of matters at Paris relating to the Union should be confided to an Envoy Extraordinary and Minister Plenipotentiary accredited to the Government of the Republic. Such a Minister would be accredited by His Majesty The King to the President of the French Republic, and would be furnished with creden-

tials which would enable him to take charge of all affairs relating to the Union. He would be the ordinary channel of communication with the Government of the Republic on these matters.

2. In communicating to you these proposals, which His Majesty's Government in the Union trust will promote maintenance and development of cordial relations, not only between France and the Union, but also between France and the whole of the British Commonwealth of Nations, I have been instructed to express to Your Excellency the hope of His Majesty's Government in the Union that the Government of the Republic will concur in the appointment of a Union Minister as set forth above.

In case, however, of note being issued upon instructions direct from Dominion concerned the form would undergo a corresponding change. From form given it will be seen among others that according to views regarding paragraph 2 of the Circular wire B.137 should end with word *matters* at the end of the second sentence, and that last sentence in paragraph 3 should be omitted.

As to interchange of information referred to in Circular B.136, I fully agree as to the desirability of a full and frank interchange; and also that there should be as free an interchange as possible of copies of communications on matters of common concern. The risk of publication, however, of such documents, and the serious consequences which such publication might involve, must be a reason for leaving it at all times to the free discretion of representative concerned, and of his Government, as to whether such interchange should take place or not.

I wish to impress necessity of adopting a form of note such as above which will avoid all appearance of derogating from equality of status and will prevent any wrong inference. Ends.

79.

*Le Gouverneur général au secrétaire, Sa Majesté le roi*  
*Governor General to Secretary, His Majesty the King*

[Ottawa,] January 21, 1929

My dear Stamfordham,

Many thanks for your letter containing my instructions for the future in regard to Letters of Credence, and also for the Letter of Credence (opened) of M. Jules Knight on his appointment as Minister here.

But honestly I can't agree with the procedure laid down, which seems to me needlessly laborious.

As His Majesty's representative here, if I am to be trusted, it would seem to me much simpler if I were to receive the Letter of Credence, and inform His Majesty of its presentation by cable, and that then I should have it opened and send to you three copies which are necessary for your records

and for those of the Foreign and Dominions Office. That seems to me a simpler and more satisfactory plan which would obviate postage, but, as I have said, the matter is not a very important one and I shall carry out instructions as laid down in your letter.

Yours sincerely,

WILLINGDON

P.S. I would suggest that there should be added to the various points as to the Procedure laid down in your letter, that a copy of the Letter of Credence should also be sent to H.M's Government of Canada.

80.

*Le Haut commissaire britannique au secrétaire d'État  
aux Affaires extérieures*

*British High Commissioner to Secretary of State for External Affairs*

Ottawa, January 21, 1929

Sir,

In accordance with instructions received from the Secretary of State for Dominion Affairs, I have the honour to inform you that His Majesty's Government in Great Britain have had under consideration the procedure to be adopted when Dominion Ministers are appointed to foreign countries. A memorandum is enclosed setting out the various stages of the established procedure in connection with such appointments, and it is suggested that it would be advantageous if an understanding were reached that this procedure should be followed in regard to similar appointments in the future.

2. I should be glad if I might be informed whether this procedure is acceptable to His Majesty's Government in Canada.

I have etc.

W. H. CLARK

[PIÈCE JOINTE/ENCLOSURE]

*Mémoire sur la nomination de ministres des Dominions  
en pays étrangers*

*Memorandum on Appointment of Dominion Ministers to Foreign Countries*

Ottawa, January 21, 1929

With regard to similar appointments in future it is suggested that the procedure already established should be followed:

(a) The King's approval should be sought as soon as the Dominion Government has decided that it wishes to establish a Legation in a foreign country.



(b) When the foreign country has agreed, they should be approached by means of an official note on the lines of Dominions Office Circular Telegram No. B. 137, with such amendments as may be decided upon in the course of the present correspondence between His Majesty's Government in London and His Majesty's Governments in the Dominions. (Occasionally this action (b) can more conveniently be taken in two sections, i.e., by first obtaining informally the agreement of the foreign country concerned to the principle of establishing a Dominion Legation and then sending an official note on the same subject.)

(c) When the Dominion Government has decided which minister it wishes to name, that the name in question should be submitted to His Majesty The King for approval.

(d) Obtaining the formal approval of the foreign Government concerned to the acceptance of the Dominion Minister approved by His Majesty The King.

81.

*Le ministre aux États-Unis au secrétaire d'État  
aux Affaires extérieures*

*Minister in United States to Secretary of State for External Affairs*

DESPATCH 214

Washington, January 26, 1929

Sir,

I have the honour to acknowledge the receipt of your despatch No. 20 of January 18th, 1929, with reference to the procedure for the extradition of fugitives from Canadian justice. I note that there is no objection to the procedure being made applicable to all the Consulates General in the United States.

2. I note, however, from the copy of the despatch from the Secretary of State for the Dominions, dated January 2nd, 1929, that His Majesty's Ambassador in Washington has been instructed to communicate only with His Majesty's Consulates General at New Orleans, Philadelphia and Boston in the sense desired. If these instructions are limited to the three offices mentioned there will be a number of Superintending Consular Offices in the United States in whose case the method of procedure will still be left in doubt. These include, of course, all the Consuls General and some officers of the rank of Consul. To avoid misunderstanding I would venture to suggest that it would be well if the remaining Superintending Consular Offices were included in the extension of the procedure in question.

3. I may point out that the British Embassy have been kind enough to raise informally the question of the risks which might be encountered in extending the practice of direct communication between Attorneys General of Canadian provinces and consular officers to consulates where there is less experience of extradition procedure than in others. While I appreciate the

difficult and technical nature of such matters I feel, as I have pointed out to His Majesty's Embassy, that there would be little danger of error or irregularity provided that the Consular Officers are requested, when in doubt in such matters, to communicate with this Legation. His Majesty's Embassy, I am informed, will be glad to issue instructions to this effect.

I have etc.

VINCENT MASSEY

82.

*Le secrétaire d'État aux Affaires extérieures au  
Haut commissaire britannique*

*Secretary of State for External Affairs to British High Commissioner*

Ottawa, January 26, 1929

Sir,

I have the honour to acknowledge your letter of January 21st, enclosing a memorandum setting forth the understanding of His Majesty's Government in Great Britain as to the procedure to be adopted when Dominion Ministers are appointed to foreign countries.

I assume that the procedure corresponds with that adopted when His Majesty's Government in Great Britain finds occasion to propose the establishment of a Legation in a new country.

I have pleasure in stating that the memorandum is fully in accordance with the understanding of His Majesty's Government in Canada as to the procedure desirable in the appointment of a Canadian Minister.

I have etc.

[W. L. MACKENZIE KING]

83.

*Le sous-secrétaire d'État aux Affaires extérieures  
au ministre aux États-Unis*

*Under-Secretary of State for External Affairs  
to Minister in United States*

Ottawa, January 31, 1929

My dear Mr. Massey,

With reference to your despatch No. 214 of January 26th, 1929, regarding the procedure for the extradition of fugitives from Canadian justice, it occurs to me, after consultation with the Department of Justice, that we might perhaps let this matter stand until your next visit to Ottawa.

I gather that no harm would result from thus postponing further consideration of this question, as the situation which developed at Philadelphia in connection with the Dettra extradition case has been adjusted and it is not likely that other difficulties will happen in the near future.

I shall therefore await the opportunity of some conversation with you, unless you think there are reasons which make it advisable that the Department should send an official reply sooner.

Yours sincerely,

O. D. SKELTON

84.

*Le secrétaire, Sa Majesté le roi, au Gouverneur général*  
*Secretary, His Majesty the King, to Governor General*

Buckingham Palace, February 13, 1929

Dear Willingdon,

Your letter of the 21st. January stated that, though you were not in agreement with the procedure laid down regarding Letters of Credence, you would of course carry it out. I felt therefore that the subject should be referred again to the Secretary of State and in doing so I pointed out that you evidently regarded the question merely from the point of view of convenience, whereas it involved an essentially constitutional issue.

The Letters of Credence are addressed to the King and in special terms reserved for such communications between Heads of States. But were these Letters to be opened by the representatives of the Sovereign in the respective Dominions, they would be dealt with by someone to whom they were not addressed: and the Head of the State might not unreasonably demur to your suggested process of short circuiting and propose that the Letters should be sent direct to the Governors-General. If such a procedure were adopted it would inevitably result in Letters of Credence for Dominion Ministers to Foreign Countries being signed not by the King but by the Governor-General. This I feel sure you would not advocate.

In the postscript to your letter you suggest that a copy of the Letter of Credence should be sent to H.M.'s Government of Canada. But the original Letter of Credence, having been opened by the King, would be returned to you and your Government would be at liberty to make as many copies as they thought fit. The copies made here would be for record at the Foreign Office and Dominions Office.

Yours very sincerely,

STAMFORDHAM

85.

*Le Gouverneur général au secrétaire, Sa Majesté le roi*  
*Governor General to Secretary, His Majesty the King*

Ottawa, February 26, 1929

My dear Stamfordham,

I regret that with a view to convenience, I overlooked a constitutional issue, and will carry out the plan with regard to Letters of Credence which the Secretary of State lays down.

Yours v. sincerely,

WILLINGDON

86.

*Le secrétaire d'État aux Affaires extérieures au ministre*  
*des Affaires extérieures de l'Afrique du Sud*  
*Secretary of State for External Affairs to South African Minister*  
*of External Affairs*

TELEGRAM 51

Ottawa, March 9, 1929

CONFIDENTIAL. Your telegram of January 21st regarding notification of proposed appointment of Dominion Ministers. On further consideration of telegrams B 135, 136 and 137 of December 21st from London and of replies from Irish Free State Government and yourself, it appears that there is substantial agreement between all four governments as to principle of consultative co-operation by which representatives of His Majesty's governments in any foreign Capital should be guided, involving full exchange of information and opinion on all matters of common concern. The objection which arises is to the communication to a foreign government of any statement on this subject, particularly in view of ambiguity of phrases proposed and of fact that such appointments are not now being made for first time. Under these circumstances it appears to us solution might be found by agreeing upon the principle of consultative co-operation as an understanding adopted between His Majesty's several governments but omitting reference to this in communication made to foreign government. This would involve omitting the third sentence of second paragraph of draft proposed in London despatch B 137 beginning "The arrangements proposed" and ending "of common concern".

We should like to have your view on this point and also as to advisability of retaining fourth sentence of above draft if revised somewhat as follows: "His Majesty's representatives in (name of foreign country) will be in constant touch, and will arrange by consultation the method of dealing with any question of common concern which may arise".

Similar telegram sent to Irish Free State.

87.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM 27

London, March 15, 1929

CONFIDENTIAL. Prime Minister has today Friday sent following message to the Prime Minister of the Union of South Africa. Begins. We have now given very careful consideration to the replies received from His Majesty's Government in Canada, Commonwealth of Australia, Union of South Africa and the Irish Free State, to the message contained in telegrams of the 21st December, Circulars B.135, 136 and 137, in so far as concerns the terms of the formal notes to be addressed to foreign Governments in notifying the proposed appointment of a Dominion Minister. The following brief summary represents generally the substance of the views expressed by the other Dominion Governments on this question.

(i) His Majesty's Government in Canada are substantially in agreement with the terms of the draft note set out in my telegram Circular B.137, but they suggest that the words following the phrase "diplomatic unity of the Empire" and defining its meaning, should be omitted as being likely to involve misunderstanding by foreign Governments concerned. They would also prefer that phrase "the (name of Dominion) Minister would be at all times in closest touch with His Majesty's Ambassador" should be altered to "His Majesty's representatives in (name of foreign country) would be at all times in closest touch" and that reference at the end of draft note to question of precedence should be omitted.

(ii) His Majesty's Government in the Commonwealth of Australia concur in terms of draft note and express opinion principles which have been accepted as governing relations between His Majesty's different Governments in matters of foreign policy can very appropriately be applied to relations between diplomatic agents of various parts of the Empire in the same countries, and that unreserved co-operation between latter appears to be indispensable if common interests of Empire are to be furthered and its diplomatic unity *vis à vis* foreign states preserved.

(iii) His Majesty's Government in New Zealand entirely concur in terms of draft note in my telegram Circular B.137.

(iv) His Majesty's Government in the Irish Free State wishes to omit from draft note all references to diplomatic unity and to relations between His Majesty's Ambassador and Dominion Ministers on the grounds mentioned. Such matter in note to a foreign Government would produce an element of obscurity and that definition of position contained in draft note is likely to lead to misunderstanding as to relations between different members of British Commonwealth of Nations.



We understand you have been informed in full of replies of His Majesty's Government in Canada and Irish Free State which are briefly summarized above.

After considering with the greatest care your own message and all views expressed as summarised above, we are prepared to accept modification in the form of draft note suggested by His Majesty's Government in Canada if His Majesty's other Governments agree. It is understood that His Majesty's Government in the Commonwealth of Australia and New Zealand also would be prepared to accept this form, although the former observe that they are unable to see in what respect the phrase "diplomatic unity of the Empire" without any explanation of what it signifies, can be less likely to give rise to misunderstanding in the mind of a foreign Government, particularly of a foreign Government at whose Capital there may be several diplomatic representatives accredited by His Majesty, than it would be when accompanied by definition suggested in telegram Circular B.137.

It is noted that His Majesty's Government in the Union of South Africa and His Majesty's Government in the Irish Free State are of the opinion that the notes to be addressed to a foreign Government on such an occasion should omit all reference to relations between His Majesty's diplomatic representatives and to principle of consultation in matters of common concern. We feel strongly, however, and we gather that the others of His Majesty's Governments share this view, that foreign Governments on being notified of an appointment of this nature, which marks a considerable departure from previous methods of representation, will not unnaturally expect some enlightenment as to significance of changes and nature of relations between Dominion Ministers to be appointed and His Majesty's Ambassador. Similarly in cases in which Ministers of other Dominions have already been appointed it seems proper that relations which will exist between all diplomatic representatives accredited by His Majesty in Capitals in question should be explained. It does not therefore seem to us to be possible to omit from formal notification all references to this matter. On the contrary, it appears important in the circumstances to use words which will make clear to foreign Governments that His Majesty's representatives, while each taking charge of matters falling within his individual sphere, will be working in closest touch and co-operation, and in matters concerning more than one of His Majesty's Governments will settle best methods of dealing with questions by consultation among themselves.

It is observed that replies of His Majesty's Governments in Union of South Africa and Irish Free State suggest that such an explanation might tend rather to obscurity and might even lead to misconception on the part of foreign Governments concerned as to principles underlying relations between members of the British Commonwealth of Nations. His Majesty's Government in the United Kingdom, however, who feel that as a result of long experience in diplomatic practice they can not unreasonably claim to be in a position to judge effects on a foreign Government of wording of a diplomatic note of this character, are strongly of opinion that foreign Governments will

expect and are indeed justified in expecting some explanation of changes contemplated in methods of representation of His Majesty at foreign Capital. We think that wording proposed accords fully with principles enunciated at the Imperial Conference of 1926, and far from giving rise to any possible misconception can leave foreign Governments in no manner of doubts as to the position.

His Majesty's Government in the United Kingdom have made a sincere effort to meet the views of His Majesty's Governments in all the Dominions and it is a matter of much disappointment to them that the replies still indicate divergence of views. The points raised by His Majesty's Governments in the Union of South Africa and the Irish Free State and discussed above seems to involve question of principles which ought not to be decided except at a meeting of the Imperial Conference.

In the meantime the establishment of several new Dominion Legations is pending, viz. the Canadian Legation at Tokio, the Irish Free State Legations at Paris and Berlin, and the Union of South Africa Legations at Washington and The Hague: in some at least of these cases very early action is desired. It seems most important therefore that correspondence as to form of note to be addressed to the foreign Governments concerned should not be further prolonged. In the circumstances, it is suggested that modified form of the note which correspondence referred to above indicates to be agreeable to the four of the six Governments concerned should be adopted. The notes themselves could then be despatched either at once or as occasion arises. The full text of draft note as modified is contained in telegram from the Secretary of State for Dominion Affairs, No. 28, Confidential, which follows immediately.

I am addressing a communication in a similar sense to the President of the Executive Council of the Irish Free State. Ends.

88.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM 28

London, March 16, 1929

CONFIDENTIAL. Appointment of Dominion Ministers. Following is full text of modified note to foreign Governments now proposed. Begins.

Your Excellency,

Under instructions from His Majesty's Principal Secretary of State for Foreign Affairs I have the honour to inform you that His Majesty's Government in (name of Dominion) have come to the conclusion that it is desirable that the handling of matters at (name of foreign Capital)

relating to (name of Dominion) should be confided to an Envoy Extraordinary and Minister Plenipotentiary accredited to (name of foreign country) Government.

2. Such a Minister would be accredited by His Majesty The King to (name of head of foreign State) and he would be furnished with credentials which would enable him to take charge of all affairs relating to (name of Dominion). He would be the ordinary channel of communication with (name of foreign country) Government on those matters. The arrangement proposed would not denote any departure from principle of diplomatic unity of the Empire. His Majesty's representatives in (name of foreign country) would be at all times in closest touch and best method of dealing with any question which may arise concerning more than one of His Majesty's Governments or all parts of the British Empire would be settled by consultation between His Majesty's representatives.

3. In proposing the establishment of a (name of Dominion) Legation which His Majesty's Governments in the United Kingdom of Great Britain and Northern Ireland, and (name of Dominion) trust will promote maintenance and development of cordial relations between the British Empire and (name of foreign country), I have been instructed to express the hope that (name of foreign country) Government will concur in the appointment of a (name of Dominion) Minister at (name of foreign Capital) on footing I have indicated above. Ends.

89.

*Le secrétaire d'État aux Affaires extérieures au  
secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 50

Ottawa, March 20, 1929

CONFIDENTIAL. Following from Prime Minister to Prime Minister. Diplomatic appointments. Your telegrams Nos. 27 and 28 of 15th and 16th March. In our telegram No. 6 of January 10th we stated that if it was considered necessary to repeat in future communications to foreign governments the reference to bearing of such appointments on diplomatic unity, after their working had been demonstrated by actual experience, we would be prepared to retain phrase. In view of the statement now made in your telegram of 15th March that retention was considered necessary, we are accordingly prepared to agree to retention. We understand from the replies of His Majesty's Governments in the Irish Free State and South Africa to your telegrams of 21st December that doubt is felt as to the advisability of making any reference to the subject in the communication to a foreign government, but difficulty also arises because the phrase 'diplomatic unity' adopted is

considered ambiguous. In the sense in which we understand it is to be interpreted, namely, that His Majesty's representatives in the foreign capital will be in closest touch with one another and will settle by consultation the method of dealing with any question concerning more than one of His Majesty's Governments, it is acceptable to His Majesty's Government in Canada, and we believe His Majesty's Government in the United Kingdom takes a similar view of meaning and purpose of phrase, as is indicated by the observation in your telegram No. 27 as follows:

It appears important in the circumstances to use words which will make clear to foreign governments that His Majesty's representatives, while each taking charge of matters falling within his own sphere, will be working in closest touch and cooperation, and in matters concerning more than one of His Majesty's Governments will settle best methods of dealing with questions by consultation among themselves.

The replies from the Irish Free State and South Africa indicated that consultative cooperation in all matters of common concern is fully acceptable to these Governments as working principle. There therefore appears to be a substantial measure of agreement on the essential point.

I should be glad to have your view as to whether a solution might not be found by modifying the last two sentences of the second paragraph of the draft text in your telegram No. 28 to read:

The arrangement proposed would not denote any departure from principle of diplomatic unity of British Commonwealth of Nations, that is to say, His Majesty's representatives in (name of foreign country) would be at all times in closest touch, etc.

If this suggestion were found acceptable, we should be pleased to have it proposed to His Majesty's Governments in the Irish Free State and South Africa, either by your Government or by ourselves.

99.

*Le ministre des Affaires extérieures de l'Irlande au secrétaire d'État  
aux Affaires extérieures*

*Irish Minister of External Affairs to Secretary of State for External Affairs*

TELEGRAM 4

Dublin, March 20, 1929

CONFIDENTIAL. Your telegram 9th March, No. 5, Confidential. His Majesty's Government in the Irish Free State would accept retention of fourth sentence in paragraph 2 as revised on condition that third sentence be omitted. They hope this compromise will make an immediate solution possible. I am informing His Majesty's Government in the United Kingdom accordingly.



91.

*Le premier ministre de l'Afrique du Sud au secrétaire d'État  
aux Affaires extérieures*

*South African Prime Minister to Secretary of State  
for External Affairs*

TELEGRAM 5

Capetown, March 21, 1929

CONFIDENTIAL. Your telegram 9th March, No. 5, Confidential, and telegram Confidential No. 27, of the 16th March, 1929, to you from the British Government, we concur in suggestion made by His Majesty's Government in Canada, in your telegram quoted, as to omission of third sentence of second paragraph of the proposed note. We agree that the principle of consultative co-operation should be extended to the several representatives of His Majesty in Foreign Capitals. We have sent today following telegram to His Majesty's Government in Great Britain, in reply to telegram Confidential, No. 27, which was also sent to us:

No. 30. Confidential. Your telegrams 16th March, No. 23 and No. 24, Confidential. Following for Prime Minister from my Prime Minister, Begins: In your telegram you state you are prepared to accept the modifications in the form of the draft note suggested by His Majesty's Government in Canada if the other Governments agree. Apparently you base your statement on the opinion expressed by His Majesty's Government in Canada in their telegram of the 10th January to you.

His Majesty's Government in the Union of South Africa appreciates the desirability of notifying foreign Governments concerned that appointment of Dominion Ministers will not denote a departure from the practice of close co-operation between the different members of the British Empire in regard to matters concerning more than one of His Majesty's Governments. They feel, however, that this aspect of the case is fully met by fourth sentence of paragraph 2 of note contained in telegram No. 24, Confidential, and that it is therefore unnecessary to resort to a terminology open to misconstruction. They would therefore prefer deletion of third sentence of second paragraph of our note. If, however, this proposal be not acceptable and retention of sentence be deemed necessary, His Majesty's Government in Union of South Africa are prepared to consent to use of phrase "diplomatic unity of the Empire" subject to it being understood that it is not intended as an intimation to the foreign countries that the British Empire is a State entity or international unit, nor as a derogation from international status and the independence of different members of the British Commonwealth of Nations, but that the phrase merely denotes the prevailing practice agreed upon between the different members of the British Empire of settling, if possible, matters concerning more than one of His Majesty's Governments by consultation among themselves.

His Majesty's Government in the Union of South Africa further feels strongly that the third paragraph of the proposed note in its present form is unacceptable as derogatory to status of Dominions in that it only makes mention of relations between the British Empire and Foreign Countries and not of those between the Dominions and Foreign Countries, thereby giving rise to impression either that Dominions are not International units, or that relation between Foreign Countries and Dominions, to further which is very object of appointment of a Minister, is a matter of so little importance as not to be worth



mentioning. His Majesty's Government in the Union therefore still beg to urge strongly that third paragraph of draft note be amended by inserting, after the words "cordial relations" the following "not only between (name of Dominion) and (name of Foreign Country) but also". Ends.

92.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM 31

London, March 23, 1929

CONFIDENTIAL. Your telegram 20th March, No. 50. Following from Prime Minister for your Prime Minister. Begins.

I have read with great interest your message as to the form of notification to foreign Governments of appointment of Dominion Ministers. It is very satisfactory that on main issue involved there is complete agreement between the Canadian Government and ourselves.

As regards suggestion as to wording in last paragraph but one of your message, we should much prefer to avoid if possible further loss of time inevitably involved by discussion of any modifications of proposed note which might be thought to raise the question of principle, and it seems to us doubtful whether alteration of wording suggested in your message would not fall within this category. Phrase "diplomatic unity of the Empire" was not meant to be defined by following sentence. Latter was designed only to explain one particular application of expression. Phrase as we understand it comprises consultation and co-operation in matters of foreign policy, not only between diplomatic representatives of His Majesty's Governments at a foreign Capital, but also between the Governments themselves. In the circumstances we hope the Canadian Government will not press suggestion in the last paragraph but one of your message and will agree to wording of second paragraph of draft note as quoted in my telegram No. 28.

As regards substitution of "British Commonwealth of Nations" for "Empire", we appreciate the reasons which have led the Canadian Government to propose inclusion of expression in note, but we suggest best be employed in paragraph 3. In this connection it is observed that the Prime Minister of the Union of South Africa in his reply to my despatch of the 16th March (which he is being asked to repeat to you and to the other Dominion Prime Ministers) has suggested in paragraph 3 of note, words "not only between (name of Dominion) and (name of foreign country) but also" should be inserted after "cordial relations". We think that this suggestion and also your own as to inclusion of reference to British Commonwealth of Nations might best be met by making sentence run "cordial relations not only between (name of Dominion) and (name of foreign country) but also between Members of the British Commonwealth of Nations generally and (name of foreign country)".

We much hope that above suggestion will be agreeable to the Canadian Government. I am assuming that you have not repeated your message to the other Dominion Prime Ministers so I am not repeating this reply. Ends.

93.

*Le secrétaire d'État aux Affaires extérieures au ministre  
des Affaires extérieures de l'Irlande*

*Secretary of State for External Affairs to Irish Minister of External Affairs*

TELEGRAM 7

Ottawa, April 12, 1929

CONFIDENTIAL. Your telegram No. 4 of March 4th. Diplomatic appointments. We feel that in accordance with previous understanding we should advise His Majesty's Government in the United Kingdom that we are prepared to accept paragraph two of modified draft contained in London telegram of 16th March. We understand last two sentences of paragraph to refer to the practice which prevails among His Majesty's representatives at a foreign capital as among His Majesty's governments themselves of exchanging information and opinion on matters of common interest with a view to ensuring as far as possible similar policies.

2. We believe that it will be possible to secure concurrence in variation in third paragraph to read "cordial relations not only between (Dominion) and (foreign country) but also between members of the British Commonwealth of Nations generally and (foreign country)".

94.

*Le secrétaire d'État aux Affaires extérieures au  
secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 68

Ottawa, April 20, 1929

PRIORITY. CONFIDENTIAL. Your telegram No. 31 of 23rd March. Following from Prime Minister for your Prime Minister. Begins. Diplomatic Appointments. As indicated in your telegram of 23rd March it is clear that we have reached agreement on main issue. We do not consider that there is any difference of principle on remaining points. We are fully prepared to retain the phrase regarding diplomatic unity of the Empire. We suggested however advisability of some interpretation and considered this could most readily be effected by linking third sentence of second paragraph of draft with the following sentence which appeared to set forth concretely the procedure followed in ensuring cooperation. We note that you consider fourth sentence does not fully cover application of expression which in your view comprises consultation and cooperation not only between diplomatic representatives of His Majesty's Governments at a foreign capital but also between the govern-

ments themselves. This point appears well taken and we would therefore suggest that following the third sentence the second paragraph should continue as follows:

That is to say, the practice which prevails among His Majesty's representatives in a foreign capital, as among His Majesty's Governments themselves, of consultation on all matters of common concern. The question of the best method of dealing with any question which may arise concerning more than one of His Majesty's Governments or all parts of the British Empire would therefore be settled by consultation between His Majesty's representatives.

We agree with your suggestion as to the modification of paragraph three to read "cordial relations not only between (Dominion of Canada) and (name of foreign country) but also between members of the British Commonwealth of Nations generally and (name of foreign country)".

We have not communicated present suggestion or suggestion in our telegram of 20th March to other governments concerned, but if, as we trust, the present revision is considered as facilitating solution we should be pleased to have communication made to His Majesty's Governments in South Africa and the Irish Free State either by your government or by ourselves in the hope of reaching a speedy conclusion.

95.

*Le secrétaire d'État aux Affaires extérieures au  
chargé d'affaires du Japon*

*Secretary of State for External Affairs to Japanese Chargé d'Affaires*

No. 3

Ottawa, April 26, 1929

Sir,

With reference to your intimation regarding the proposed appointment of Mr. Iyemasa Tokugawa as Minister of Japan in Canada, I have the honour to inform you that this appointment will be entirely agreeable to The King and to His Majesty's Government in Canada.

Accept etc.

W. L. MACKENZIE KING

96.

*Le secrétaire d'État aux Affaires extérieures au  
secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 79

Ottawa, April 30, 1929

Canadian Legation at Tokyo. As Honourable Herbert Marler is leaving shortly for a visit to England and will not be able to reach Tokyo until early

in September it is proposed to establish the Legation in May under Dr. Hugh L. Keenleyside of the Staff of the Department of External Affairs as First Secretary and Chargé d'Affaires and James A. Langley, Canadian Government Trade Commissioner in Japan, as Commercial Secretary. The Japanese Legation in Ottawa is being so informed.

97.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM 65

London, May 11, 1929

IMMEDIATE. CONFIDENTIAL. Your telegram 20th April, No. 68. Following for Prime Minister from my Prime Minister. Begins. Notification to Foreign Governments of the appointment of Dominion Ministers. We are very grateful for your helpful message. As regards suggestion of His Majesty's Government in Canada relating to the last two sentences of the second paragraph of draft note transmitted in Secretary of State's telegram No. 28 of the 16th March, I ought to explain that the penultimate sentence of paragraph 2 of my message of the 23rd March (see Secretary of State's telegram No. 31) was not intended to be a complete formal definition of the phrase "diplomatic unity of the Empire" as we understand it, but was only a description of what principle involved in present connection. We appreciate, however, view of His Majesty's Government in Canada that, in order to avoid ambiguity, it would be desirable to link together two sentences in question so that they would constitute an explanation of the meaning of the phrase in the present connection, and we are ready to agree to an amendment of the note on these lines. To avoid possible misconception it must be understood that this explanation is not to be regarded as a complete and universally applicable definition of the phrase in question, but merely a statement of what it involves in the present context.

As regards the actual wording, however, we should like to make use of the phrase "consultative co-operation" which you employed in your speech, mentioned in my message of the 21st December, and which indeed has been suggested by His Majesty's Government in the Irish Free State in their despatch of the 24th April, and we would accordingly suggest that third and fourth sentence of second paragraph of draft note should read as follows:

The arrangements proposed would not denote any departure from the principle of diplomatic unity of the Empire, that is to say, the principle of consultative co-operation among all His Majesty's representatives as among His Majesty's Governments themselves in matters of common

concern. The question of the best method of dealing with any matter which may arise concerning more than one of His Majesty's Governments or all parts of the British Empire would therefore be settled by consultation between His Majesty's representatives.

It is very desirable to reach finality in this matter as soon as possible, and we earnestly hope that above suggestions will meet your views and have your approval.

The Irish Free State Government in communication above referred to have proposed omission of last sentence of second paragraph, but we feel that it would be preferable to retain this sentence (inclusion of which is we gather entirely acceptable to the Canadian Government) as affording some guidance to Foreign Governments concerned as regards detailed application in practice of general principle.

Irish Free State Government have further suggested modification of third paragraph of note so that it would read as follows:

In proposing establishment of a (name of Dominion) Legation, His Majesty's Government in (name of Dominion) trust that it will promote maintenance and development of cordial relations, not only between (name of Foreign Country) and (name of Dominion), but also between (name of Foreign Country) and the whole of the British Commonwealth of Nations.

This suggestion carries somewhat further than that made in my message of the 23rd March and agreed to in your message of the 20th April, and if it is generally desired, we should be prepared to accept it. We feel however that if suggested modification is adopted it would be desirable, in order to avoid any possibility of giving to Foreign Governments impression that His Majesty's Government in the United Kingdom are unsympathetic towards creation of Dominion Legations concerned, to add sentence on the following lines:

I have the honour to add that His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland fully endorse the hope expressed on behalf of His Majesty's Government in (name of Dominion).

If the above suggestions are agreeable to His Majesty's Government in Canada, we shall be most grateful if, with a view of reaching a speedy settlement of matter, His Majesty's Government in Canada would communicate both to His Majesty's Government in the Union of South Africa and His Majesty's Government in the Irish Free State as suggested, and also to His Majesty's Government in New Zealand and His Majesty's Government in the Commonwealth of Australia amended text of paragraph showing revision desired with a view of securing their acceptance. Ends.



98.

*Le secrétaire d'État aux Affaires extérieures au  
secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 91

Ottawa, May 15, 1929

IMMEDIATE. CONFIDENTIAL. Your telegram 11th May, No. 65. Following for Prime Minister from Prime Minister. Begins. Notification to foreign governments of appointment of Dominion Ministers.

1. We are pleased to note that our views are so nearly in accord. We would be prepared to accept the revised third sentence of second paragraph of draft note as setting forth clearly the sense in which we understand the phrase "diplomatic unity" and to retain the fourth sentence. The suggested modification of the third paragraph of the note appears to us wholly satisfactory.

2. We are accordingly informing His Majesty's Governments in South Africa and the Irish Free State of the revised form proposed and of our readiness to accept it, and are asking them to inform us as speedily as possible of their views. We should add that while recognizing the convenience of uniformity in the form of notification to be used in the case of all His Majesty's Governments which are appointing Ministers, we do not consider it essential and are primarily concerned with finding an expression applicable to the needs of Canada.

3. With reference to the suggestion that we should communicate the revised text to His Majesty's Governments in Australia and New Zealand with a view of securing their acceptance, we have not been aware that either government was contemplating the appointment of Ministers. Thus far we have not had any direct communication with either government on this subject and would prefer to conclude the correspondence with the governments immediately concerned.

99.

*Le secrétaire d'État aux Affaires extérieures au  
secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 99

Ottawa, May 23, 1929

IMMEDIATE. CONFIDENTIAL. Our telegram 15th May No. 91. Following for Prime Minister from Prime Minister. Begins. Notification to foreign governments of appointment of Dominion Ministers.

Paragraph one. His Majesty's Government in the Irish Free State indicate that they would be prepared to accept revised draft of second paragraph third sentence. They consider however that retention of last sentence of this para-

graph is unnecessary and undesirable, dealing with a matter of inter-Commonwealth arrangement and of no assistance whatever to foreign governments as a guide in taking up matters with His Majesty's several representatives. This latter view appears to us to have considerable force. Foreign governments particularly at outset may have difficulty in considering which of His Majesty's governments are concerned in a certain question and with which of His Majesty's representatives it should be taken up, but a workable solution fully consistent with equality among His Majesty's representatives can only be secured by experience after Dominion Legations are in operation. Irish Free State Government have also some difficulty in connection with the third paragraph.

Paragraph two. Under these circumstances we are suggesting to the Irish Free State Government to take up the remaining points directly with London. In view of the substantial measure of common ground now attained we trust that a final consensus of opinion as between His Majesty's Governments in the United Kingdom and the Irish Free State may be speedily reached and believe that we would have little difficulty in accepting for ourselves a basis found acceptable to both governments. Ends.

100.

*Le secrétaire d'État aux Affaires extérieures au ministre  
des Affaires extérieures de l'Irlande*

*Secretary of State for External Affairs to Irish Minister of External Affairs*

TELEGRAM 10

Ottawa, May 23, 1929

IMMEDIATE. CONFIDENTIAL. Notification of appointment of Dominion Ministers. Government of South Africa informed us 18th May that the proposed revision referred to in our telegram of 15th May which was identical with our telegram of same date to you was acceptable.

101.

*Le secrétaire d'État aux Affaires extérieures au  
secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 101

Ottawa, May 28, 1929

CONFIDENTIAL. IMMEDIATE. Our telegram No. 99, Confidential, 23rd May, notification of appointment of Dominion Ministers. His Majesty's Government in the Irish Free State inform us that as a result of conference with His Majesty's Government in the United Kingdom the following amendments in draft note have been agreed to, namely:

(a) Insertion at beginning of first sentence of first paragraph of words "at the instance of His Majesty's Government in (name of Dominion concerned) and".

(b) Substitution of following sentence for last sentence of second paragraph: "The method of dealing with matters which may arise concerning more than one of His Majesty's Governments would therefore be settled by consultation between representatives of His Majesty's Governments concerned."

(c) Deletion of last sentence of third paragraph of draft with understanding that His Majesty's Ambassador would, when communicating note, inform foreign government that hope expressed in note on behalf of His Majesty's Government in the Dominion concerned is shared by His Majesty's Government in the United Kingdom.

2. His Majesty's Government in Canada accepts the draft note with the above revisions.

102.

*Le secrétaire d'État aux Affaires extérieures au Haut commissaire*  
*Secretary of State for External Affairs to High Commissioner*

TELEGRAM 52

Ottawa, June 11, 1929

CONFIDENTIAL. As you are aware, the question of the form of notification to be used in case of appointments of Dominion Ministers has been under consideration for some time. Final concurrence of British Government in a revised general form was received in telegram of 6th June, which reached here 7th June. We accordingly telegraphed London that day suggesting that substantially identical notes should be sent to Japanese Government by British Ambassador and Canadian Chargé d'Affaires embodying substance of form agreed upon, but with modifications necessitated by the fact that agreement upon exchange of Ministers had already been reached and Legations established in Tokyo and Ottawa the only point remaining to be determined being therefore the question of the scope of duties of the Minister. We suggested also that the formal request for the Agrément regarding appointment of Mr. Marler as Canadian Minister should be conveyed to Japanese Government through Canadian Chargé d'Affaires. This telegram crossed one from Dominions Office informing us that British Ambassador at Tokyo was being instructed to communicate to the Japanese Government notice of appointment in the general form agreed upon, apparently without any variation, and to invite agrément regarding appointment of Mr. Marler. We understand from British High Commissioner's Office here this action taken partly in accordance with Mr. Marler's representations. While regretting that we had no intimation that the British Government contemplated this procedure we have informed British Government that in view of the fact that instructions had already been issued to British Ambassador and presumably action already taken, we would not press for the procedure suggested in our previous telegram, though we considered it the proper one under the circumstances.

We trust matter will be adjusted before Mr. Marler's departure. In view of reports as to condition of King's health, I assume that he will conclude that it would not be advisable to seek direct audience with His Majesty, and that if steps toward this end had been taken before the recent change in the King's health, the appropriate authorities would now be advised accordingly.

103.

*Le secrétaire d'État aux Affaires extérieures au  
secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 112

Ottawa, June 14, 1929

IMMEDIATE. Our telegram No. 108 of the 7th June. His Majesty's Canadian Ministers desire that as soon as notice of acceptability to Japanese Government is received, His Majesty the King be humbly moved to appoint The Honourable Herbert Meredith Marler as Envoy Extraordinary and Minister Plenipotentiary to Tokyo with the special object of representing in Japan the interests of the Dominion of Canada, and to issue the necessary Letters of Credence.<sup>1</sup> It is also desired that a Commission may be issued to Mr. Marler in the terms adopted in the case of Mr. Massey, Mr. Marler being described as The Honourable Herbert Meredith Marler, of Coaticook, Stanstead County, and Montreal, a Member of His Majesty's Privy Council for Canada.

104.

*Le secrétaire d'État aux Affaires extérieures au ministre  
aux États-Unis*

*Secretary of State for External Affairs to Minister in United States*

DESPATCH 89

Ottawa, March 20, 1930

Sir,

With reference to your despatch No. 527 of the 12th instant on the subject of the procedure in the extradition of criminals from the United States, I have the honour to enclose for your information copy of a despatch<sup>2</sup> addressed to the Secretary of State for Dominion Affairs suggesting the adoption of the plan proposed whereby all superintending consular officers in the United States might be instructed to institute extradition proceedings upon the application of the Attorney General of a Canadian Province. I further enclose copy of a communication<sup>1</sup> sent by the Deputy Minister of Justice to the

<sup>1</sup> La commission et la lettre de créance ont été dûment signées le 27 juin 1929.

<sup>1</sup> The commission and letter of credence were duly signed on June 27, 1929.

<sup>2</sup> Non reproduite.

<sup>2</sup> Not printed.

Attorneys General of the Provinces calling their attention to the approved procedure in regard to communications from the Provincial authorities to the Consuls.

I have etc.

O. D. SKELTON  
for the Secretary of State  
for External Affairs

105.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

DESPATCH 276

Downing Street, May 22, 1930

Sir,

I have the honour to acknowledge the receipt of your despatch No. 107 of the 20th of March relative to the question of direct communication in extradition matters between the Provincial Governments in the Dominion of Canada and certain of His Majesty's Consular Officers in the United States of America, and to state that His Majesty's Government in the United Kingdom concur in the proposal to extend the arrangement already in force in respect of His Majesty's Consuls-General in the United States to all His Majesty's Superintending Consular Officers in that country and that His Majesty's Ambassador at Washington has been requested to instruct the Consular Officers concerned accordingly.

I have etc.

PASSFIELD



CHAPITRE II / CHAPTER II

RELATIONS IMPÉRIALES  
IMPERIAL RELATIONS

- |                                                             |                                                        |
|-------------------------------------------------------------|--------------------------------------------------------|
| 1. Conférence impériale, 1926                               | 1. Imperial Conference, 1926                           |
| 2. Conférence sur la portée de la législation des Dominions | 2. Conference on the Operation of Dominion Legislation |
| 3. Conférence impériale, 1930                               | 3. Imperial Conference, 1930                           |
| 4. Coopération économique                                   | 4. Imperial Economic Co-operation                      |
| 5. Coopération en matière de défense                        | 5. Imperial Defence Co-operation                       |
| 6. Communications impériales                                | 6. Imperial Communications                             |

PARTIE 1/PART 1

CONFÉRENCE IMPÉRIALE, 1926  
IMPERIAL CONFERENCE, 1926

106.

*Le Gouverneur général au secrétaire aux Dominions*  
*Governor General to Dominions Secretary*

TELEGRAM

Ottawa, February 19, 1926

CONFIDENTIAL. Following from the Prime Minister for your Prime Minister. Begins. Your telegram of Feb. 15 with reference to Imperial Conference received. As between the two years suggested in your telegram of Dec. 21 for holding the Conference, 1927 would undoubtedly, as previously indicated, be more suitable from Canada's point of view. In consequence, however, of your statement of Feb. 4 that the general view of the governments of the other Dominions and of India is in favour of a Conference in October, 1926, and that this view is shared by the British Cabinet, the Canadian Government is prepared to concur in the proposal to set October, 1926, as the date of the Conference. Before any announcement is made, Canadian Government desires to be put in a position to reply to the requests advanced in our House of Commons for publication of Locarno correspondence, as noted in my telegram of Jan. 28. Ends.<sup>1</sup>

<sup>1</sup> Voir documents 556-63.

<sup>1</sup> See Documents 556-63.

107.

*Le secrétaire aux Dominions au Gouverneur général*  
*Dominions Secretary to Governor General*

TELEGRAM

London, July 28, 1926

SECRET. My telegram of July 21st. Following from Prime Minister for your Prime Minister. Begins. Replies now received from the Prime Minister of all Dominions concerned and from the Government of India agreeing to October 19th as the opening date for the Imperial Conference. Accordingly, I propose to make statement in the House of Commons tomorrow, July 29th, in reply to a question on the subject, of which notice has already been given. Reply will be to the effect that as the result of a request received from the Canadian Government for short postponement of the opening date for the Imperial Conference in consequence of the impending general election, it has now been agreed between all Governments concerned that the opening date shall be October 19th.

Similar message sent to other Prime Ministers. Ends.

108.

*Le Gouverneur général au secrétaire aux Dominions*  
*Governor General to Dominions Secretary*

TELEGRAM

Ottawa, September 25, 1926

Following from my Prime Minister to your Prime Minister. Begins. I am pleased to be able to advise you of my intention to be present with one or more of my colleagues at the forthcoming Imperial Conference and my hope is that it will be possible for us to reach London in time for the opening meeting on October 19th. I hope it will be possible for my colleagues and myself to remain in London throughout the period of the Conference but inasmuch as the late Parliament was dissolved before the estimates for the current fiscal year had been voted and the expenditures since have been met and will have to continue to be met until Parliament re-assembles and votes supplies by the issuing of Governor General's warrants it is essential that our Parliament should be called at the earliest time possible after the return of the writs and the holding of the necessary ministerial by-elections. In these circumstances may I express the hope that the proceedings of the Conference might be shortened or so arranged as to have its essential work completed within three or four weeks at the most. In view of the importance of the matters which will have to be considered immediately upon the opening of Parliament and also because this will be the first occasion upon which the new Governor General Lord Willingdon will officiate at an opening of Parliament, I feel it imperative that I should return to Canada in time to be present at the opening and briefly to review in advance some of the matters

to which I shall be obliged to give attention. I shall much appreciate any intimation you may be able to give me as to what may be possible with respect to an abbreviation of the time of the proceedings of the Conference. Ends.

109.

*Le secrétaire aux Dominions au Gouverneur général*  
*Dominions Secretary to Governor General*

TELEGRAM

London, September 27, 1926

CONFIDENTIAL. Your telegram of September 25th. Following from Prime Minister for your Prime Minister. Begins. I am very glad to hear that you will be able to attend the Imperial Conference. I shall be delighted to welcome your colleagues and yourself.

We had anticipated that the Conference would not in any case extend beyond about November 26th and if it were possible to shorten its duration, without impairing the value of its works, this would be in accordance with our wishes, more particularly as Parliament here meets for the Autumn Session on November 9th. But the Agenda is a long one and several subjects to be discussed raise important and intricate issues. Hence, I confess I am somewhat doubtful whether it is possible materially to shorten the proceedings as a whole. I quite appreciate, however, the force of the considerations which you mention, and you may be sure that we shall do our utmost to expedite the essential work of the Conference. Ends.

110.

*Extrait du procès-verbal de la Conférence impériale, 1926*  
*Extract from Minutes of Imperial Conference, 1926*

First Meeting

October 19, 1926

SECRET

...

#### OPENING SPEECH BY THE PRIME MINISTER OF CANADA

MR. MACKENZIE KING: Prime Minister and Members of the Conference, I believe it is the custom that the representative of the senior Dominion should speak first after the Prime Minister of Great Britain, and it is perhaps as well that precedent should be followed on this occasion as on others. I could wish that representatives of the Dominions of longer experience were present to speak first, but looking about this table I realise that Mr. Bruce, Mr. Cosgrave, and I are the only three Prime Ministers from the Dominions who were present at the last Conference, notwithstanding that it was our first Conference. That only helps to illustrate the vicissitudes of political life and

fortune, and the importance of a gathering such as this in enabling us all to become more intimately acquainted, and to have the privilege of discussing together the great questions in which we are all concerned.

May I take this opportunity of joining in the Prime Minister's expressions of regret at the death, since our last Conference, of Lord Curzon and of Mr. Massey? Lord Curzon was a great imperial figure, the representative of a splendid tradition of prolonged preparation and high service. Those of us who were privileged to listen three years ago in this room to his masterly three hours' survey of world affairs, a remarkable intellectual feat, will long cherish his memory. Mr. Massey on the last occasion was the dean of the Dominion Ministers. His sound common sense, his wide human sympathies, and his sturdy individuality impressed all who met him. We are looking forward to making the closer acquaintance of his successor, Mr. Coates, of General Hertzog, Mr. Monroe, the representatives of India, and the other members of this Conference. The representatives of His Majesty's Government of Great Britain are already old friends of most of us. May I, in this regard, express our deep appreciation to the Prime Minister of the heartiness of the welcome which he has extended to us all at this Conference?

#### Value of Imperial Conference

The rapid changes in personnel indicate the need and the value of such gatherings as this, which make it possible for those directly responsible for the government of the several parts of the Commonwealth to learn something of the special problems, the difficulties, and opportunities of the other British communities and to learn something also of the personal equation in their governing. Brief cabled reports of what some Minister on the other side of the globe has said or done will be interpreted in truer perspective once we have met and exchanged views in frank and friendly discussion.

#### Improvement in International Situation since 1923

Mr. Baldwin has given us a very lucid review of developments since the last Conference, of the historical significance of the Conference itself, and an outline of the tasks we are now called upon to discuss. Beyond question the international horizon has cleared very greatly since 1923; a distinct advance has been made towards both political and economic stability in most countries, and, if some serious industrial and financial difficulties still remain both within and without the Commonwealth, we may be encouraged to hope that a solution will soon be found. I need not at this stage comment upon any of the questions of special interest to members of the British Commonwealth to which Mr. Baldwin referred, as they will come before us in detail later. I may simply say that I believe that, approaching them with goodwill and a realisation of their vital significance, we may well hope to find ways and means of advancing them distinctly toward a settlement to our common good.

### Diversity of Empire

In this historic room are gathered representatives from every continent and all the Seven Seas, owing allegiance to a common King. Such a gathering makes one realise how great an error it would be to overlook in our plans and forecasts either the differences in situation and outlook of these several nations or the deep and lasting things they share in common. This diversity is sometimes left out of account in the habit we have formed of speaking of all the countries of the Empire whose representatives sit on this side of the table under the collective term of "the Dominions" as if they were not individual countries so much as examples of a type, and the differences between them were unimportant in comparison with the distinction between them all and the Mother Country. And yet a moment's reflection indicates how distinct they are in historical background, in racial composition, in economic organisation, in neighbours and neighbourhood relations, and perhaps increasingly in national character. On the other hand, our very presence here indicates that we share in common many great problems, many commanding opportunities, many proud memories—the moving ceremony we witnessed this morning commemorates the greatest of those common memories—and, not least, common standards of public life and private conduct. In more senses than one, we speak the same language. In countless ways, in trade, in markets, in migration, one part needs and complements the other.

I should like to join the Prime Minister in his appreciation of the work of the Imperial War Graves Commission and to express our gratification at the establishment of the Endowment Fund.

Through this unprecedented experiment in world organisation which we call the Commonwealth or Community of British Nations, one-fourth of the world's peoples are linked in friendship and in peace. It is inevitable, simply because this great experiment is without precedent or parallel, that sometimes we find difficulty in making foreign countries understand our position, or in wholly understanding it ourselves. But perhaps in the next few weeks we may be able to explore methods for a clearer understanding of our political relationships, including the problem of foreign policy in its several aspects, and methods as well for closer co-operation in economic matters and fuller utilisation of the challenging opportunity the Commonwealth presents to each and all of its members. It will then remain to bring such outcome before the several Governments we represent, and in some cases before our parliaments and peoples.

### Message to Their Majesties

As a first step in our proceedings it is especially fitting that we should express our respectful homage to Their Majesties, and I would therefore ask that I might have the honour of moving the following resolution:

The Prime Ministers and other representatives of the Governments of the British Empire assembled in Conference, at their first meeting and as their first official act, desire to express their respectful greetings and fidelity to the King, and



their earnest hope that Your Majesty and Her Majesty the Queen may long be spared to strengthen the ties of affection and devotion which unite the peoples of the British Commonwealth under the Crown.

## 111.

*Extraits du procès-verbal de la Conférence impériale, 1926*

*Extracts from Minutes of Imperial Conference, 1926*

Fifth Meeting

October 21, 1926

SECRET

STATEMENT BY THE SECRETARY OF STATE FOR THE COLONIES,  
PROTECTORATES, AND MANDATED TERRITORIES

MR. AMERY: . . . .

West Indies

Having detained you thus far with a general appreciation of what the Colonial Empire may mean to us all, I hope I may be allowed, following the precedent of the last Conference, to take you in a short survey round the different main portions of that Empire. I might begin, perhaps, with the West Indies first of all, those old historic Colonies which were almost the foundation of the Colonial Empire, and which, in the eighteenth century, were so fiercely disputed between us and our French and Spanish rivals—many of them the scene of great naval encounters, taken and retaken, and the object of the fiercest disputes at Peace Conferences afterwards. That was because in those days the West Indies were highly developed relatively to the rest of the tropical world and were of immense economic importance. There is one West Indian island which we held at one time and which now belongs to France. It belongs to France because at a Peace Treaty France preferred the possession of Guadeloupe to the option which was open to her to keep a few acres of snow—"quelques arpents de neige"—in the shape of Canada. I think that shows that there is no territory of great extent, however small its value may appear at the present moment, but can be of immense importance some day when developed.

Their Isolation

Those West Indian islands have, during the greater part of the last century, been in a state of stagnation and backwardness. That has been due to a variety of causes. One, of course, is their isolation from each other. They are mostly small islands and, though we think of them collectively, they are separated from each other by great distances. Jamaica is 1,200 miles from the Eastern group of islands, and 400 or 500 miles from British Honduras, to the west of it. They have also, in the course of the world's development, become isolated from the main channels of world trade. They were once on the old

great sailing route to the Spanish Main; during the last century they have gradually fallen out of the main routes. I think the future may change that. They are to-day in the course of shipping from Europe and from North America to the Panama Canal. As trade between North America, more particularly Canada, and South America develops, they are straight along the line of that development. If airship communication should develop, as I believe it will, it will tend to follow the old sailing routes in order to take advantage of the prevalent winds, and in that case one may find once more that the West Indies are more accessible from here than New York. . . .

### Trade Relations with Canada

Dealing with the general relations of the West Indies, another important event in their history in recent years has been the Conference on Trade and Shipping which they held with the Government of the Dominion of Canada at Ottawa in 1925. There have been shipping and trade relations, a system of mutual preference, between Canada and the West Indies for a good many years past. Those relations were strengthened and developed by the conference held between those Colonies and Canada in 1920, but the recent conference went a good deal further and in it—I have no doubt the Prime Minister of Canada may wish to say something more in detail about the matter—these various Colonies gave a considerably extended preference to the Dominion of Canada under a great many different heads, while Canada has given an increased preference to them on certain things that are of special importance to them, things such as sugar, bananas, and cocoa. Newfoundland, I believe, was not actually represented at that conference, but, from what the Prime Minister of Newfoundland said the other day about his readiness, so far as Newfoundland is concerned, to extend the system of preference within the Empire, I have no doubt he is also taking into consideration the possibilities of whether he can deal with the West Indian situation as well as with the general problem of Imperial Preference. Another part, and from the point of view of the West Indies certainly not the least important part, of the agreement which was made in 1925 was one for a better steamship service between Canada and the West Indies. That service has not yet actually been put into effect. The full time limit within which it was to be carried out has not yet expired, and the Government of the Dominion has been occupied recently with other more immediately pressing matters. The West Indies are naturally very anxious about the future of their shipping service, and they look in that matter, as indeed in many other matters of their development, with the keenest interest to what Canada is prepared to do in the way of developing mutual trade for the benefit of both sides in this bargain.

### West Indian Telegraphic Communications

I may add that another aspect of West Indian communications—that of telegraphic communications—the deficiencies of which were a serious obstacle to the development of West Indian trade a few years ago, has now been

satisfactorily settled. A scheme which was suggested to the Government of Canada at the Economic Conference of 1923 has now been put into operation and has successfully at any rate to a very large extent, solved the difficulties which previously existed. Under a co-operative scheme the cost of operating the cables from Barbados to Turks Island, from Barbados to Trinidad, and from Barbados to British Guiana, and wireless stations in Barbados and other islands, is now met by contributions from His Majesty's Governments, both here and in Canada, and by the various West Indian colonies in partnership. The system of communication is managed by the Pacific Cable Board and has, I think, proved, in the experience of the colonies concerned, a reliable and efficient means of communication at lower cost than the system previously in operation. I might mention that in 1924 an Act was passed empowering the Pacific Cable Board, with the approval of the Governments represented on it, to undertake any telegraphic work as agents for the Governments of any part of His Majesty's Dominions. So much for the problem of West Indian isolation. . . .

#### Canadian Trade Agreement with the West Indies

MR. MACKENZIE KING: I would approve what Mr. Amery said in all particulars. The agreement, we think, is a very good one, and we have reason to believe that the West Indies also look upon it very favourably. There has been a little delay in bringing about the steamship services in accordance with the arrangements entered into. That is a temporary matter. I think it will be settled within a short time. That is what we hope. We gave increased preferences on a number of articles and the West Indies gave us an increased preference. We think it is going to be mutually beneficial, and I believe that the visit of the West Indian delegates to Canada was a thoroughly good thing both for them and for us. It established a contact both pleasant and profitable. I might say, too, there is considerable pleasure travel between Canada and the West Indies growing up, which I think is going to be helpful; we shall see more of each other.

MR. BALDWIN: That will help your steamship services.

MR. MACKENZIE KING: Yes; it will be of mutual help . . . .

112.

*Extrait du procès-verbal de la Conférence impériale, 1926*

*Extract from Minutes of Imperial Conference, 1926*

Sixth Meeting

October 22, 1926

SECRET

#### INTER-IMPERIAL TRADE

#### STATEMENT BY THE PRIME MINISTER OF CANADA

MR. MACKENZIE KING: Prime Minister, we listened with interest yesterday to the lucid summary given by the President of the Board of Trade of the

chief economic questions which are to receive the consideration of this Conference. A number of the minor, or at least more technical, questions are being referred for preliminary examination to sub-committees, so that it is not necessary to refer to them at this stage. One of the most important issues, that of Imperial migration and settlement, is to be discussed in full at a later sitting. I shall therefore confine my observations at this time to a few of the more general economic questions before us.

### Trade of Canada with Great Britain

First, as to inter-Imperial trade. Sir Philip Cunliffe-Lister was able to report that an appreciably larger percentage of Great Britain's exports were being taken by the other parts of the Empire. The same satisfactory position as to total inter-Empire trade is indicated by an analysis of trends in Canada. In the past four years, our imports from the British Isles have increased approximately from 117,000,000 dollars to 163,000,000 dollars, and from 15.7 per cent. of our total imports to 17.6 per cent. We would wish that British imports formed a larger proportion of our purchases, but in view of increasing competition from other countries, and particularly the advantage which United States exports derive from close proximity and knowledge of Canadian requirements, it is striking to find the share of British exports on the increase. I think it will be agreed that but for Canada's extension of preference to Great Britain in 1897, the starting-point of the present intricate inter-Imperial preferential system, and further developments such as the grant in our budget of 1923 of a one-tenth additional tariff preference to British goods entering by Canadian ports, the position would be far from as satisfactory as it is to-day. It may further be of interest to note the very high percentage of manufactured goods in these imports from the British Isles, 87 per cent, in the last fiscal year, or more than half as great again as in the case of imports from the United States, from which we derive a good deal of our raw materials. In the same four years the rate of duty levied on dutiable imports from Britain declined from 24.8 to 22.1 per cent.

Great Britain was last year our best customer; it has alternated in this position of late years with the United States. Four years ago we exported to Great Britain 300,000,000 dollars worth of Canadian products; last year, over 500,000,000 dollars. Yet the percentage of our exports taken by Great Britain fell during these years from 40.4 to 39 per cent., a fact which reflects the growing diversity of our export trade and the increasing amounts taken by Continental Europe and Asia.

During the past four years our trade with the other members of the British Commonwealth has shown marked expansion in totals, and a slighter increase in percentage of our whole export and import trade.

### Trade Agreements with Australia and British West Indies

During the past year two important trade agreements have been negotiated with other members of the Commonwealth. After long endeavour, we succeeded in making an agreement with our Australian friends for a very



considerable reciprocal exchange of preference. The agreement has had to run the gauntlet of a good deal of criticism in both countries, which is perhaps an indication that it was not one-sided, but we believe that it will prove of very distinct advantage both to Australia and to ourselves. More recently we have renewed our trade and steamship service agreement with the British West Indies. I think Mr. Amery, who has kept intimately in touch with this development, will agree with me that Canada entered into this new arrangement as into the old one in no haggling spirit, and with a full appreciation of the desirability of rendering still closer the ties between these two North American units of the British Empire. The new agreement has not yet formally gone into effect, and negotiations for the provision of the new steamship services which are contemplated are still under way, but as an earnest of goodwill we have extended the agreement rates to British West Indies produce since April of this year.

### Canada and the Imperial Economic Committee

The work of the Imperial Economic Committee, appointed last year to consider the marketing in Great Britain of foodstuffs from the overseas Empire, and the proposals for expenditure by the Empire Marketing Board, were reviewed yesterday by Mr. Amery with characteristic enthusiasm. Reference was made to the position taken by Canada at the 1923 Conference upon the proposal to establish a permanent committee in London with practically fixed personnel to deal with a wide but undefined range of economic questions. We supported enquiry into every possible means of improving inter-Empire trade relations and developing our common economic interests; instead, however, of establishing a single and permanent committee for this purpose, we considered it preferable to appoint from time to time, as occasion required, *ad hoc* committees with specially fitted personnel. It was on the latter basis that the present Imperial Economic Committee on the Marketing of Empire Foodstuffs in Great Britain was eventually set up. Its reports upon the general situation, and on meat, fruit, and dairy products, are valuable analyses of the present situation and contain many suggestions for improving conditions of which advantage will doubtless soon be taken, most notably in legislation for the marking of Empire produce.

On the same basis, it should be possible to organise an effective and helpful enquiry into the marketing of other foodstuffs than those already considered and the marketing of other commodities, including mine and forest products, and Canada would have pleasure in co-operating in such further enquiry.

### Empire Marketing Board

Reference has also been made to the establishment by the British Government of an Empire Marketing Board to administer a grant of £1,000,000 a year. As Mr. Amery has recalled to us, when the present Government of Great Britain felt itself precluded from carrying through certain new preferences on Dominion and Colonial products which had been put forward at the



Conference of 1923, it decided to provide a sum equivalent to the estimated value of these preferences for the furtherance in other ways of the marketing of overseas products in Britain, and later it was decided to bring the marketing of British produce as well within the scope of the grant. Canada has for a generation taken the position that the Mother Country was as fully entitled to self-government in determining its fiscal policy as any Dominion, and we still maintain that view. The expenditure of the large sum thus provided, mainly, as has been indicated, in publicity in Britain and in research, particularly on tropical and semi-tropical questions, should prove of unquestioned advantage to Empire production and marketing. It is, of course, for the Government and Parliament of Great Britain to decide whether either preference or this substitute policy is to be established or to be continued, and it is equally clear that the responsibility and direction of administration must rest with the representatives of the British taxpayers who provide the funds. On our part, I may say that the Canadian Government, recognizing the need of taking still further advantage of the great market of the British Isles, is at present considering various methods of providing assistance for the maintenance and extension of our exports to Britain.

It would, I submit, be a great mistake to limit our consideration to State action. The most striking development in marketing in recent years is the growth of self-help, through producers co-operative marketing organisations, of which the great Western Canadian agricultural co-operative societies, and latterly the wheat pools, are perhaps the most far-reaching and significant.

### Production of British Films

I shall touch at this time on only one other point, that of film production. No one who realises how widely and deeply the thought and life of the people can be affected by this new and tremendous factor in our recreation and education will underestimate the seriousness of the present situation, in which so small a proportion of the moving pictures exhibited in the British Commonwealth are produced within the Commonwealth. The possibilities of conscious and unconscious influence on the business and political and social outlook are tremendous. The art and industry of the moving picture have found at last the universal language, and no geographical bounds can be set to the appeal of an attractive film. I can see no reason, however, for assuming that the present inadequate representation of British and Dominion films will prove permanent. The initial advantage of the United States will lessen with time, as has been the case with other industries in older lands. The possibilities of utilising the splendid scenic and historic backgrounds and trained actors of Britain, the unsurpassed opportunities afforded in the Dominions for films of outdoor life, the marked way in which the technique developed in any country is being made available in others, provide grounds for expecting that with energy and skill the present proportions of British and foreign films will soon be altered. As Sir Philip Cunliffe-Lister has said, it is not desirable at this stage to explore the possible lines of action which might be taken to encourage the production of British films; the question is being referred to a

sub-committee. In any consideration of State action, the division of jurisdiction between Federal and Provincial or State authorities is of course a factor in the situation in Canada, and I suppose in Australia. I need only add that I assume that, in any discussion or policy as to production of British films, we mean films produced in any part of the British Commonwealth.

I hope we shall have an opportunity at a later session of going more into concrete detail on some of the economic questions which are before us. . . .

## 113.

*Extraits du procès-verbal de la Conférence impériale, 1926*

*Extracts from Minutes of Imperial Conference, 1926*

Eighth Meeting  
MOST SECRET

October 25, 1926

## FOREIGN RELATIONS

MR. BALDWIN: Mr. Mackenzie King, would you be good enough to say anything you may have to say in elucidation or criticism of the Foreign Secretary's statement the other day? If the discussion, as I rather hope, does not continue beyond this morning, there is an arrangement for Committees this afternoon on which Sir Maurice Hankey would like to be advised.

SIR AUSTEN CHAMBERLAIN: May I say a word on one point? I presume that this discussion is going to be of the same confidential character as my statement, that it is not intended to publish this discussion any more than to publish my statement.

MR. MACKENZIE KING: I take it that it is expected that I should make a statement similar to the one I made at the last Conference with regard to foreign relations.

MR. BALDWIN: I was hoping that the Prime Ministers of any of the Dominions who had had foreign relations would give us their experiences.

MR. MACKENZIE KING: Is it intended to make any reference to the Locarno Conference at this time?

MR. BRUCE: May I put this point, because I have thought very much about this? I think one might express one's views about Locarno at this discussion, as to the merits of Locarno, and whether it is something that will tend to give results, but the other side of the question I think would be more suitable for this Committee we are going to have.

MR. BALDWIN: I think the two subjects are easily separable.

MR. MACKENZIE KING: As far as Locarno is concerned, I was going to ask that my colleague might speak on that. He has taken part in the work of the Assembly of the League of Nations, and has given a good deal of special study to the question.

MR. COATES: There is one other point. Would it be in order at this stage to discuss any suggested alterations with regard to organisation leading up to information or communications between the Foreign Office and Dominions, and *vice versa*?

MR. BALDWIN: I think that would come better in subsequent discussion.

#### STATEMENT BY THE PRIME MINISTER OF CANADA

MR. MACKENZIE KING: Prime Minister, on Wednesday last the Foreign Secretary pictured to us the outstanding problems with which the Foreign Office had been occupied of late. Perhaps I may best contribute to the discussion by reviewing some of the special questions with which we in Canada have been concerned since the last Conference. Our relations with foreign countries are of comparatively narrow scope, but they are growing year by year in complexity and in the time and attention they require.

#### Relations with United States

Especially in the case of the younger and smaller countries, foreign relations are mainly neighbourhood relations. It is with neighbours as a rule that intercourse is most frequent, and the number of difficulties requiring joint adjustment is greatest. It is not surprising, therefore, that in Canada foreign relations mean predominantly relations with the United States. The United States is very much our neighbour, sharing a common border line over three thousand miles in length, and the relationship is intensified by the comparative absence of other near neighbours. It is not an unmixed blessing to have a neighbour so dominant in wealth and population and ambition, but there is certainly no other great foreign power we would as soon have at our doors.

I have found some apprehension as to the Americanisation of Canada. Certainly our business and social relations are very close, and are bound to be closer, and many phases of our life reflect United States influence. But, so far as there is similarity of attitude, it is as likely to be due to similarity of New World conditions as to the influence of one country on the other, and in fundamentals there is no evidence or likelihood of United States permeation. We are developing not only a distinct national consciousness, as Lord Byng indicated the other evening, which serves as the strongest possible safeguard against such permeation, but a distinct national type of character and of social organisation which our friends of the United States are the first to note and recognise. Social absorption, I may assure the pessimists, is as far off as political union.

#### Conventions with United States

In reviewing our relations with the United States I shall deal first with such as have terminated in treaty making. Four treaties or conventions have been negotiated in the past two years, signed by a member of the Canadian Government, Mr. Lapointe, under full powers from His Majesty, issued on

the advice of his Canadian Ministers. These treaties were approved by the Parliament of Canada as well as by the United States Senate, and duly ratified.

(a) For Regulation of Level of Lake of the Woods

Last year a convention was negotiated for the joint regulation of the level of the Lake of the Woods, a boundary water of much importance for power development; it was based upon recommendations made by the International Joint Commission. This body is a permanent board of six, three members from each country, with wide powers of investigating and reporting upon the many boundary-water problems which our extended border and the conflicting interests of power and navigation make of paramount importance to us. The Commission has succeeded in reaching unanimity on every question referred to it but one, and that a minor issue. The Commission is authorised to serve in a still wider capacity: either Government may refer to it for investigation and report any question whatever at issue, and, if the two countries so agree in advance, it may give a binding report. So far, no advantage has been taken of this clause, but we consider it of value as providing a potential little Hague Court or Locarno arbitration for North America. It will shortly become necessary to reorganise and strengthen the Board, whose Canadian Chairman has just resigned; as the smaller country, Canada is particularly anxious to preserve and extend this instrument of reason and goodwill.

(b) For Extradition of Offenders against Narcotic Laws

A second convention concluded last year provided for the extradition of offenders against the narcotic laws of either country.

(c) For Prevention of Smuggling

A third convention negotiated in 1924 and ratified last year aimed at the prevention of smuggling operations along the international boundary; it provides for the exchange of information between officials of the two countries and mutual assistance in court proceedings. With a common land and water boundary of three thousand miles, and long and often untenanted shores to guard; with a premium placed upon smuggling by the liquor prohibition laws of the United States and the high customs duties of both countries on such luxuries as silks and tobacco; and with the facilities for evasion afforded by the high-powered motor car, motor boat, and airplane, the task of preventing smuggling is extraordinarily difficult, and occasionally proves too much not only for the vigilance but for the honesty of local officers. Steps are now being taken in Canada to strengthen the administration of existing laws and to consider what further legislation may be required. This enquiry has been entrusted to a judicial commission, with Mr. Rowell, who was present with Sir Robert Borden at the Conference of 1918, as chief counsel. The United States has proposed an extension of the existing smuggling convention,



including the refusal of clearances to all vessels carrying liquor to the other country; and this aspect of the case has also been referred to the commission for report.

The extent to which the dry United States derives its supply of liquor by smuggling over land or sea borders is much less than is popularly supposed; according to General Andrews, the officer in charge of prohibition enforcement, it amounts to not more than five to ten per cent, of the whole supply, but it is a spectacular portion and one, laden with many possibilities of friction through seizure of vessels or irritation over failure. We are therefore prepared to consider carefully whether any further concessions can properly be made. In this connection we have noted the outcome of the discussions held in London a few weeks ago between British and United States officials, and we hope to have an opportunity of exchanging views on the question before leaving London.

#### (d) For Boundary Demarcation

The fourth agreement to which I shall refer was the Boundary Demarcation Treaty, also concluded last year. It completed, we hope, the long process of determining the boundary between Canada and the United States by defining the line more exactly in the region of the Lake of the Woods and also in Passamaquoddy Bay on the Atlantic Coast, and continued provisions for a Boundary Commission to set up and prevent the removal of neighbours' landmarks. One section of the treaty effected an exchange of territory along the 49th parallel to secure a more workable line, not extensive in area, but perhaps interesting in principle as involving one of the ultimate acts of national sovereignty, the cession of territory.

#### Regulation of Broadcasting in Canada and United States

I may perhaps cite further at this point, as indicating the type of question which arises most frequently with our neighbours, another problem now receiving attention, that of regulating radio broadcasting. This is particularly difficult on a continent speaking more or less the same tongue, or rather two tongues, for one of the most notable stations is one in Montreal which reaches the French-speaking population of New England as well as that of Eastern Canada. The United States Government, through Mr. Hoover, attempted a short time ago to restrict the various stations in that country to definite wave-lengths, and by an informal and very fair working agreement certain wave-lengths were reserved for Canadian stations. Recently a number of private broadcasting organisations in the United States have taken to using wave-lengths assigned to other stations, including one or two reserved for Canada, and the United States courts have held that under existing laws the Federal Government has no power to compel them to desist. We have, therefore, proposed a convention to regulate the whole question, and the United States has agreed to meet us to consider it.



### Problems of International Waterways

Perhaps our most difficult outstanding problems are those arising out of the existence, along the international border, of great lakes and rivers, which are proving increasingly valuable and tempting assets for power and irrigation development as well as for navigation, with corresponding demands upon the public treasury. Many phases of these questions can be, and are being, solved by the International Joint Commission, but there remain difficult questions of policy, none the easier of solution because of occasional conflict of interest or of political expediency between the Federal and the Provincial or State authorities on either side of the border. Three such questions in particular are now receiving attention, the Chicago diversion from Lake Michigan, the situation on the Niagara River, and the St. Lawrence ship channel, all difficult, but all, I believe, in way of solution.

I referred three years ago to the difficulty created by the endeavour of the city of Chicago, which has now lined up all the Mississippi States behind it, to divert a part of the waters of the Great Lakes through a large canal into the Mississippi River system, at first for purposes of sanitation, but latterly to improve navigation from Chicago to the Gulf of Mexico. The difficulty still remains, and the question has recently been very acute; the city of Chicago and the State of Illinois have carried on a most aggressive campaign, and the influence of the mid-West in Congress is, of course, very great. The diversion of water at Chicago is now 10,000 cubic second feet; I may perhaps make this more concrete by saying that it is a greater volume of water than that which passes over the American Falls at Niagara. This diversion involves lowering the level of the Great Lakes and St. Lawrence River and harbours by from 6 inches to a foot, and lessening the possibilities of water-power development in the Lakes and St. Lawrence.

MR. AMERY: Is that "6 inches to a foot" per year

MR. MACKENZIE KING: Six inches to a foot altogether. At the same time, it must be admitted that climatic and other factors are much more responsible for the present low levels of the Lakes than Chicago's action, and that there are some weaknesses in our position both in treaty interpretation and on grounds of precedent. Fortunately, we have had good support from the States bordering on the Great Lakes. Decided progress has been made in the past two years. The United States Supreme Court has upheld the right of its Federal Government to regulate the diversion, and we have succeeded by an exchange of notes and personal interviews in securing from that Government recently an undertaking to adopt and to enforce against Chicago a policy of gradual reduction of the present flow. The lake States are now suing the State of Illinois in the Supreme Court in the endeavour to secure an injunction against diversion; on the other hand, the Chicago forces are making a last desperate effort in the Session of Congress which is to open in December to secure an Act of Congress to authorize the present diversion permanently and to override any executive attempt at restraint. The outlook is, therefore, not without risk, but we may say that we have found the United States adminis-

tration reasonable, and we believe that it will be possible to work out a very fair compromise in the next year or so, of which the possible lines are, in fact, now apparent.

A second waterway difficulty arises at Niagara, where there is an engineering problem to solve in the erosion of the escarpment of the Falls, and the threat to scenic qualities by diversion for power purposes, and a political problem in conflicting demands for further diversions for power on both sides of the border. A joint committee has just been appointed to report on the engineering aspects, and the question may later go to the International Joint Commission, or be included in a comprehensive waterways settlement.

The third waterways issue arises from projects for the building of a great ship channel in the St. Lawrence, making it navigable for ocean vessels drawing 30 feet instead of vessels drawing 14 feet as at present, and thus extending ocean navigation to the upper end of the Great Lakes and the heart of the Continent; incidentally, this construction would result in a great water-power development. Aside from engineering problems, the project brings up very serious political issues, partly international, partly domestic, through conflicting Federal and local jurisdiction, and perhaps policies as to water powers. A joint Canadian and United States engineering board is about to report on the project, which will then come before the Governments for separate or joint action as may be determined.

#### Revision of Rush-Bagot Agreement

The proposed revision of the Rush-Bagot Agreement of a hundred years ago, limiting armament on the Great Lakes, has not advanced, but it is anticipated that it will come up for consideration very shortly.

#### Appointment of Canadian Minister at Washington

The existence of the problems I have just reviewed, and of the many trade and business incidents which require daily adjustment, has convinced the Canadian Government that it will not be possible to defer longer the appointment of a Canadian Minister at Washington, and especially so as we have been fortunate in securing for the post a man so admirably qualified as the Hon. Vincent Massey. We wish to discuss with the Foreign Secretary, during our stay here, some phases of the appointment before formally requesting His Majesty to issue the necessary letters of credence, and in this regard we have thought it would be of advantage to all concerned to have Mr. Massey present in London. As you know, he is here at present. I should like to take advantage of this opportunity to express our appreciation of the unfailing goodwill and effectiveness of the services of His Majesty's Ambassador in Washington, Sir Esmé Howard, and of the Foreign Office, in our dealings with the United States; we have no doubt that Mr. Massey will work very harmoniously in co-operation with the Ambassador, as, for that matter, I understand from both Sir Esmé and Mr. Smiddy has been true in their case ever since the appointment of the Minister of the Irish Free State.

### Canada's Part in Empire's Foreign Policy

We believe that for many years to come by far the most important work in the field of foreign policy which we in Canada can hope to perform, a task naturally assigned to us in the division of Imperial labours and one which we should not neglect in order to undertake tasks further afield for which we have much less knowledge and training, is to do our share in maintaining and developing the good relations between the English-speaking peoples. That does not mean offering up vital interests on the altar of Anglo-American friendship; we think we know something of the ways of our neighbours, and that a reasonable insistence on our own rights, if conveyed in a moderate and practical temper, will usually win their respect—if not always their acquiescence.

### Chinese and Japanese Immigration

With the communities across the Pacific our relations and those of the other Dominions must become increasingly important. Our trade with the Orient is growing rapidly, though set back by the disturbances of the past two years in China. It has, however, been men rather than markets which have chiefly exercised our attention. Immigration into Canada from China has been strictly limited since 1923, but immigration from Japan continues to give difficulty. From 1901 to 1921 our Chinese population grew from 17,000 to 40,000, and our Japanese population from 4,000 to 15,000. The great bulk of this population, and particularly of the Japanese, is concentrated in the Pacific province of British Columbia. Every tenth child born in that province is of Oriental parentage. The problem is primarily an economic rather than a racial one, as our working men find it difficult to compete with the lower standards of living, and sometimes the higher standards of working, of the Japanese and Chinese. Since 1907 our general immigration policy, particularly as regards Continental Europe, has become much stricter, but the Japanese regulations, save for one change, have remained unmodified. These conditions, and particularly the influence of the action of the United States in doing away in 1924 with the Gentlemen's Agreement of 1907 and adopting a policy of complete exclusion of Japanese immigrants, have led to much pressure for drastic action by Canada. The official Opposition in Parliament advocates complete exclusion. While appreciating the seriousness of the situation, the present Government of Canada has felt it highly desirable, particularly in view of the tense situation in the Orient and the sensitiveness of our Japanese friends, to seek to secure the necessary modifications by common consent, and to amend the 1907 agreement rather than abolish it. For this purpose we have been carrying on negotiations for over a year, interrupted somewhat by elections and by political changes in both countries. The discussion has been carried on mainly with the Japanese Consul-General in Ottawa; I had the privilege of going into the question briefly with Baron Matsui on his way through Canada to take up his work as Japanese Ambassador in London. We have kept the Government of this country advised of the position throughout.

Briefly, the position at present is that returning Japanese are allowed to enter freely, with their families; that domestic servants and agricultural labourers, coming for the first time, may be admitted to the number of 150 a year—a figure reduced from 400 a year in 1923; and that the administration of the agreement is practically in the hands of the Japanese Government, which issues passports which we accept, subject to the usual health and character tests. In some of these respects Japanese immigrants enjoy privileges not accorded to Europeans. We are proposing that Japanese who come to Canada after 1926 shall not have the right to go back and return with wives and children; that the numbers of new immigrants shall not exceed 150 a year, including women and children; that stricter precautions be taken against evasion, and that in general the provisions of our Immigration Act should prevail where not specifically varied by the agreement. Neither the present nor the proposed agreement restricts the coming of officials, tourists, students, or merchants for temporary purposes. Japan, while now prepared to concede most of our requests, has sought to widen the doors to retail merchants. We hope that it will be possible to conclude the matter within the next few months, and by consent. Even the revised agreement, it will be noted, is very much less drastic than the regulations in force in the other British Dominions on the Pacific, or in the United States.

### Canadian Relations with Russia

Of relations with other foreign Governments, I need refer only to the case of Soviet Russia. The administration of Mr. Meighen, shortly before his retirement in 1921, arranged for the adherence of Canada to the Trade Agreement of that year between the United Kingdom and the Soviet Union. Canada, I believe, is the only one of the Dominions which has so adhered. This agreement involves the presence in Canada of an Official Agent of the Soviet Union. I may say that there have not been lacking suggestions that the Mission was likely to be an instrument of propaganda, particularly among Russian and Ukrainian immigrants, but thus far there have not been revealed any substantial grounds for this suspicion. The business community has been somewhat more favourable since the extensive purchases last year by the Soviet authorities of Canadian flour as well as of agricultural and electrical machinery. Canadian bankers were not willing to give the two seasons' credit asked, and the Soviet purchases were financed by credits secured in New York. This year, I believe, part of the purchases, which are on a smaller scale, are being financed through Canadian agencies.

### Commercial Conventions with European Countries

In concluding this review, I may refer briefly to several commercial conventions recently concluded, or now under consideration. Agreements have been made with Belgium and the Netherlands providing for an exchange of most-favoured-nation tariff terms, which means, of course, the most favoured foreign nation. It will shortly be necessary to conclude agreements with



Germany, Czechoslovakia, and Spain, and possibly also with Poland and Greece. We did not find it possible to adhere to the Anglo-German Commercial Agreement of last year, and are now considering on what terms we can reconcile the interests of those of our producers who desire a market in Germany, particularly for flour, and those who fear German competition in our own market. Our exports to the Continent of Europe are now greater, in money value, than our exports to all countries thirty years ago, and, whereas, further, before the war we imported from Germany, for example, three or more times as much as we exported, the proportions are now exactly reversed. But much of this trade is fortuitous and may be lost if efforts are not made to hold our footing.

That is as far as I have been able to proceed. I think what Mr. Lapointe may have to say on Locarno, either at the moment or later, will conclude all we have to say at this stage on foreign relations.

MR. BALDWIN: Thank you, that is of very great interest. Mr. Lapointe, perhaps you would like to make a statement.

#### Attitude of Canada towards Locarno Treaties

MR. LAPOINTE: I had intended to deal briefly with the question as to whether Canada should adhere to the Locarno Treaty, and give our views on the matter, but I understand that this will be dealt with at a later stage. I would merely remark that the outstanding impression derived from the Foreign Secretary's review is the improvement in European conditions since 1923. Many factors have contributed: time has allayed war passions, the hard realities of crushing debt and taxes, shattered trade, demoralised currencies, and the shadow of bankruptcy and Bolshevism have brought most European countries to feel and to emphasise the dangers they share in common, while the settlement, for the time at least, of the reparations question by the Dawes report and the London Conference has removed a great stumbling-block.

But the personal factor and personal effort have also played an essential part. France has been more conciliatory since M. Briand's régime. But above all the improvement is due to the genuine desire of Great Britain for peace in Europe and to the skill and patience of her Foreign Secretary, an attitude which has come to be defined as the spirit of Locarno.

The position as to Locarno has been explained very clearly by the Foreign Secretary. The policy of arbitrating differences adopted therein by France and Germany is full of promise; whether it is desirable for a country like Canada to join in the guarantees of the treaty is perhaps another question.

The negotiations which ended in the treaty were carried on by the Government of Great Britain. The Dominions were not consulted, though they were very fully informed and could, if they had desired, have offered comments at any stage. The decision to accept the treaty was made by the Government and Parliament of Great Britain. We have no exception whatever to take to



that course, which was justified by the exigencies of the situation and by the assumption which evidently underlay the negotiations that it was a question primarily of concern to Great Britain.

That assumption, however, has a bearing on the question whether Canada should adhere under the optional clause now that the treaty has been definitely concluded and ratified.

I shall reserve my further remarks on Locarno for future discussion. . . .

### Appreciation of Sir Austen Chamberlain's Statement

MR. MACKENZIE KING: If the Conference would permit me, I should like, on behalf of Canada, to associate myself with my colleagues in the remarks of appreciation and admiration that have been expressed with reference to the review which the Secretary of State for Foreign Affairs gave us last week. I would have prefaced my remarks in that way had it not been that I assumed we were putting forward merely a statement of matters of interest to each party, and also I said a few words on this point the other day. I know that the people of Canada would desire to have me share in the expression of congratulation on the achievement of his policy in Europe. Similarly, in regard to the League of Nations, I said nothing about that, assuming that we would discuss it later, but I would like to say that there is only one feeling on the part of all people of Canada in respect to the League, and that is one of increasing interest in its work and a desire to be helpful in regard to it.

### CONCLUDING STATEMENT BY SECRETARY OF STATE FOR FOREIGN AFFAIRS

SIR AUSTEN CHAMBERLAIN: I should like, in the first place, to express my warm gratitude for the kindly way in which gentlemen have spoken of me and of the review that I made the other day of the foreign situation. I am delighted that after two years I should be able to meet the representatives of the Empire and give to them some personal account of my stewardship which not only concerns my immediate part of the British Empire, but in which I owe a great responsibility to the Dominions and India. I should say that I shall be very glad to exchange information, to receive as well as to give information, with the Prime Minister of Canada in regard to the liquor smuggling question on the United States' seaboard and frontier. His Majesty's Government and His Majesty's Ambassador will gladly co-operate with the Canadian Minister who is going to proceed to Washington, and I am sure that with goodwill, such as exists on both sides, the Ambassador and the Minister will work as intimately and as successfully together as I hope I may say that the Ambassador and the Minister already appointed by the Irish Free State have done.

### Japanese Immigration into Dominions

The Prime Minister of Canada, and other Prime Ministers who are interested in the question of Japanese immigration, will perhaps allow me to say a word not on the substance of their policy as regards Japanese immigration,

which I quite realise is essential to the conditions of the particular Dominions, but merely on the form that should be given to it. I believe that the Japanese Government recognises that it cannot demand that there should be free access for Japanese emigrants either into Australia or Canada, but they do attach the greatest importance to having this matter treated, as far as may be, by what in the case of America was called a "Gentleman's Agreement," rather than by a unilateral decree of exclusion, which offends their national pride and hurts them in a point in which they are very sensitive . . . .

#### PROCEDURE AT COMMITTEE ON INTER-IMPERIAL RELATIONS

LORD BALFOUR: The next two points are purely technical. I think it will probably be convenient both to the Prime Ministers and to myself as Chairman if we can bring in, each of us, an expert whose services we might use if the occasion arose, it being understood that when there was a desire for the room to be cleared the Committee [on Inter-Imperial Relations] should be reduced to the Prime Ministers and to them alone. The next point is rather in the same order of thought. I am afraid we cannot ask Sir Maurice Hankey to undertake the whole work of reporting this Committee. He is about the hardest-worked man in Great Britain at the present moment and we must not throw more upon him than is absolutely necessary. I suggest therefore that he should be assisted by competent persons from the Dominions Office and from the Foreign Office if need be, and I hope also that some of the Dominion Prime Ministers may be able to lend assistance for reporting purposes, it again being understood in their case, as in the other case to which I have just referred, that when the room was cleared they should depart and Sir Maurice Hankey should be available to take their place. That I think would keep it entirely in the spirit of the resolution we made, and I think it would make the whole thing work easily and smoothly.

MR. O'HIGGINS: I should like to bring the Attorney-General with me when the question of appeals to the Judicial Committee of the Privy Council is under discussion, and I wondered if it would be considered proper that he should have the right of audience at the Committee.

MR. BALDWIN: Just as our Lord Chancellor would come, certainly.

MR. MACKENZIE KING: Might I just ask one question? I understood the Prime Minister to say that, whilst it was a Committee of Prime Ministers, we might have one of our colleagues with us. That is understood, is it?

MR. BALDWIN: Yes.

LORD BALFOUR: And, when the room was cleared, we should be reduced to our narrowest limits.

MR. BALDWIN: Any Prime Minister would be entitled to say, in the language of the House of Commons, "I spy strangers."

MR. AMERY: Reduction to narrowest limits does not exclude Cabinet colleagues.

LORD BALFOUR: No.

(Agreed.)

114.

*Extraits du procès-verbal du comité des relations intra-impériales**Extracts from Minutes of Committee on Inter-Imperial Relations*First Meeting<sup>1</sup>

October 27, 1926

MOST SECRET

After a brief preliminary discussion concerning procedure and publicity, Lord Balfour read the following statement:

Since the shock of the Great War has, for good or for evil, hastened so many movements which were, in any case, inevitable, it is no matter for surprise that men ask themselves how the structure of the constitution of the British Empire has fared in this changing world. Before 1914 it seemed to alien observers the frailest of political structures. A State which (so far as its western elements were concerned) consisted in the main of six self-governing communities, bound together by no central authority, not competent to enlist a single recruit or impose a shilling of taxation, might look well painted on the map, but as fighting machine is surely negligible.

The war refuted this plausible conjecture; but it left the Empire unexplained and undefined. Then came the Peace; and the constituent States took their full share in framing and signing the Treaty which they had done so much to secure. But this procedure, though it demonstrated the effective reality of the British Empire, did little to make its position clear to students of comparative politics.

ii

The difficulty which so many find in 'placing' the British Empire arises largely from the fact that its character and constitution are entirely without precedent, and that, as a result, it does not comfortably fit into any familiar theories, nor can it be described by the ordinary concepts of international law. Yet its general character is not difficult to delineate.

iii

It may be conveniently divided into elements of four [*sic*] different kinds:

- (1) The seven self-governing communities—Great Britain and the North of Ireland, Canada, Australia, New Zealand, South Africa, the Irish Free State and Newfoundland.
- (2) India.
- (3) The Dependencies of the self-governing State, namely, the Colonies, the Protectorates, and the Mandated Territories of Great Britain, Australia, New Zealand and the Union of South Africa.

iv

In what consists the unity of this varied assortment of communities, scattered over the whole globe, and differing from each other in language, race, religion and history?

<sup>1</sup> La présence aux deuxième, troisième, dixième, douzième et treizième réunions de ce Comité fut, selon les termes du document 113, limitée aux Premiers ministres ou aux Chefs de délégations. Aucun procès-verbal ne fut dressé.

<sup>1</sup> The attendance at the second, third, tenth, twelfth and thirteenth meetings of this committee was restricted to the Prime Ministers or Heads of Delegations as provided in Document 113. No minutes of these meetings were made.

From a strictly juridical point of view, there are only two attributes which they all share with each other and with nobody else. They are all under one Crown; and their inhabitants are all citizens of one Empire. But juridical formulas, if they stand alone, are but a brittle bond. On what solid foundation of patriotic sentiment does the fabric of the Empire rest? It rests upon the well-founded conviction that the Empire makes for general peace, and for the security of its diverse portions. Whether in war or in peace there is no constituent of the Empire which does not gain in consideration and status by being part of a greater whole; and what is gain to them is far from being any loss to others. For the very existence of this complex unity makes for the maintenance of world peace, and on the maintenance of world peace depends the future of civilisation.

## v

It is true, no doubt, that, while in our knowledge of present needs and in our hopes of future security we may all of us find adequate ground for Imperial patriotism, the different parts of this varied whole cannot draw their strength from memories of a common history. Their history has been too diverse; their ancient differences have been too acute. Yet Imperial unity gives us all the right to a share in the glories of each other's past, and to claim an interest in each other's contributions to the wealth of the world in the spheres of literature, science, politics and war. I at least, as a Scotsman, am not going to surrender my share of Magna Charta and Shakespeare on account of Bannockburn and Flodden. This may seem fanciful; but I hope it is as real to others as it is to me.

## vi

These general reflections are a necessary prelude to the more particular business of the Committee of Prime Ministers; and I turn to the problems raised by the most novel and yet most characteristic peculiarity of the British Empire—I mean the co-existence within its unity of seven autonomous communities. This statement of fact, though very simple, is barely intelligible to foreigners, and no doubt has among ourselves given rise to some secondary difficulties. It is with these secondary difficulties that the Committee has to deal; but in dealing with them it is vital to remember that they *are* secondary, and that the fundamental truth to which they are subordinate is the equality of status which is the essential foundation of this part of our imperial fabric.

## vii

It is undoubtedly true that this equality of status is combined at present, and probably will always be combined in some form or other, with differences of function. For example, four out of the seven self-governing communities—Great Britain, Australia, New Zealand and South Africa—have Dependencies belonging to the Empire. Canada, the Irish Free State and Newfoundland have not. Great Britain has special relations with India, the Colonies, the Protectorates and the Channel Islands not directly shared by the Dominions. She also takes a leading part in the all-important and most burdensome task of Imperial Defence and in the direction of Foreign Affairs which has no exact parallel elsewhere.

## viii

Her relations with these two great departments of Imperial activity are no doubt due in part to historic reasons. But there is a more fundamental explanation arising out of the actual conditions with which, as practical statesmen, we have all got to deal. The principles determining the general direction of Foreign Affairs may be, and ought to be, the product of consultation; and it will be among our chief duties to make the consultation more continuous and more effective. But there are always moments in the conduct of fleets, of armies, and of negotiations, when decisions, if they are to be of use, must be rapid, and when consultations,



if they involve delay, are a danger rather than a strength. If this be so, it must be on one of the seven self-governing communities that the greatest weight of responsibility must be thrown; and so long as the centre of difficulty is Europe, and the present distribution of population in the Empire suffers no overwhelming change, it seems impossible to ask any other portion of the Empire to perform the major duties which now devolve upon Great Britain. We must content ourselves with improving to the utmost the machinery of imperial consultation, which, in any case, will work more rapidly and smoothly as the progress of invention enables us to overcome more effectually the obstacles presented by Time and Space.

MR. MACKENZIE KING said that Lord Balfour had very fairly stated the position. The situation did not raise any question for the present, but questions might arise as to how far the practice is consistent with the principle stated. For example, the question might be raised whether the distinction should not be made between the Government and the King and whether the Governor-General should be considered as the Representative of the King and not as the representative of the Government in London.

MR. AMERY said that this might be a subject for discussion. Traces of a former constitutional régime remain, but in practice have no effect. How far these old forms are still an obstacle to recognition of full equality is a matter for discussion.

GENERAL HERTZOG then read the following statement:

#### 6. *Declaration Necessary for Adequate Empire Co-operation*

One word as to Empire co-operation, upon which all the usefulness of the Commonwealth as between its members, as well as the influence which it is to exercise upon the world and world affairs, must depend.

To that co-operation the goodwill of the Dominions is essential, and, as I have tried to point out, that goodwill cannot be effectively secured except through an authoritative declaration of their constitutional position in the Empire.

It must, moreover, be pointed out that the absence of such a declaration cannot but hamper and restrict Empire co-operation even where the greatest goodwill exists. In order that those to whom are at any time entrusted the destinies of a Dominion may decide upon such co-operation, it is necessary that they should know to what extent their country's freedom will be committed through their decision. Not only that; they will also have to show to those on whose behalf they exercise that trust that the freedom of the Dominion is not prejudicially affected by that co-operation.

This it will not be possible to do satisfactorily in matters of important national concern, unless the people of the Dominion equally with their responsible Ministers are fully informed of their national status, and can clearly see how that status may or will be affected by such co-operation.

If it is true, as I see it complained of, that Dominion Statesmen at a Conference like this sometimes hardly pass beyond mutual courtesies, it is no doubt often due to the hesitancy induced by ignorance of what they will commit their country to if they consent to a line of policy suggested without the necessary assurance as to what the status of their country is, and how that status may be affected by that policy.

#### 7. *Conclusion*

Taking all this into consideration, and knowing what the feeling in South Africa is, and how much that feeling will be beneficially influenced by a declaration as urged by me, I do wish to impress upon the British Government the necessity of such a declaration being issued.



I have already quoted what General Smuts said in 1921 as to the necessity of such a declaration and how he then warned against *being too late*. Much ill-feeling and unpleasantness would have been avoided if effect had been given to his advice at the time.

Yet it is not too late; and I implore that what should have been done in 1921, shall now no longer be delayed.

MR. AMERY then said that General Smuts's memorandum which had been quoted by General Hertzog was one which he had drafted before he came to the Conference of 1921, and they had discussed it together as friends. He added that the matter was not then pressed because the proposal for a constitutional conference, at which both Governments and Oppositions would be represented, to discuss the whole question, was abandoned; General Smuts realised that a resolution of that kind could not usefully come from a conference of Prime Ministers.

Two questions were raised: that of a general declaration of rights as a basis which would be followed by constitutional development in the usual course; and the question whether the authority of the Imperial Conference was sufficient to reach a decision on that declaration.

In any such declaration it would be necessary to define the sense in which each part of the Empire is independent, while all are inter-dependent in virtue of a common Crown, a common nationality and a common responsibility. It would therefore require most careful preparation and consideration by some body of unprecedented character with a wider authority than the Imperial Conference.

There had been considerable advance since 1921, but the practical aspects of the question might perhaps be examined by legal experts.

SIR AUSTEN CHAMBERLAIN's recollection, which he thought Lord Birkenhead could confirm, was that General Smuts withdrew his proposal not merely because of the abandonment of the constitutional conference but also as a result of private discussions which showed the danger of rendering rigid inter-Imperial relations. The Empire's existence depended on the elasticity of its constitution. Definition would impair its growth; and it was this danger which led the Conference of 1921 not to attempt any such definition of our relations.

MR. BRUCE thought that such a declaration would merely state what is really a matter of common agreement, even if not generally understood abroad.

GENERAL HERTZOG considered that his country ought to know where it stood to-day; the uncertainty of the position led to ill-feeling and suspicion. Equal status requires some definition; they stood in every respect on the same footing with Great Britain as regards their rights, but they did not in practice exercise all those rights. The Empire consists of a number of free States all standing in the same relation under the Crown. If there is any appearance of subordination or inferiority, it is no more than an appearance.

LORD BALFOUR thought that he had stated this in the most explicit form in which it could be stated in his opening memorandum. He would deprecate going into exact *nuances* of independence either in that room, or on a public platform or anywhere else; was it not enough to know that in the view of every British statesman whatever rights Great Britain has the Dominions have; and the same applies to status. He had said as much quite recently in the House of Lords, and indeed for the last twenty years. It is only on practical grounds that the leading part in the burden and cost of defence and the conduct of foreign affairs falls on one of the seven Governments.

MR. HAVENGA said that the British Government had never stated this to foreign Governments.

LORD BALFOUR replied that it had been stated as a commonplace.

SIR AUSTEN CHAMBERLAIN stated that no one in this country would dispute that each self-governing Dominion is as independent as Great Britain; the only qualification is that Great Britain is not independent of the Dominions. It was not easy to explain the theory of this to foreigners, as he had experienced at Geneva in connection with the Protocol; though they recognised in practice that at Locarno he could only sign for the Government in London.

MR. AMERY remarked that a definition which would satisfy us would not satisfy foreigners. We could only proceed step by step and deal with specific points as they arise.

LORD BIRKENHEAD said that he had listened with great attention to General Hertzog's observations and that nothing in them had caused him anxiety. There was, indeed, nothing new, as Lord Balfour had pointed out some twenty years ago, in this independence of Dominions. In South Africa, as in the Irish Free State, sad memories were stored up. He saw nothing in the statement made by General Hertzog at the first meeting of the Conference to justify the criticism it had receive [*sic*] in South Africa. In days of peril every part of the Empire had contributed its effort. He suggested that General Hertzog might put his ideas into a form which would satisfy him and which could be discussed. If, after discussion, agreement were reached in the Committee, the further question could be considered whether publication were desirable.

Sentiment might be as important as practical inconvenience; but such matters cannot be dealt with *in abstracto*.

LORD BIRKENHEAD alluded to the concluding portion of General Hertzog's first statement, which contained the true view that certain functions were entrusted by the Empire to the Government in London as mandatory. Some day another Government might be invested with these functions. He was not speaking on behalf of India, but as a Cabinet Minister present at the meeting.

MR. BRUCE agreed with the suggestion that General Hertzog should submit a formula. There was nothing to which he could take exception in General Hertzog's statement. The resolution of 1923 in relation to treaties had a more far-reaching importance.

GENERAL HERTZOG offered to lay a formula before the Committee.

LORD BALFOUR mentioned the necessity of considering at the same time the memorandum on the form of preamble and signature of treaties (E.104), which deals with the practical application of the principle of equal status. . . .

MR. AMERY'S suggestion that a Sub-Committee should be appointed was then accepted.

SIR AUSTEN CHAMBERLAIN suggested that at the next meeting the Committee might consider generally the question of improvements in the machinery for Inter-Imperial consultation and the conduct of foreign affairs.

The Committee agreed to consider this subject at a further meeting.

## 115.

*Extraits du procès-verbal de la Conférence impériale, 1926*

*Extracts from Minutes of Imperial Conference, 1926*

Tenth Meeting

October 28, 1926

SECRET

### STATEMENT BY THE PRIME MINISTER OF CANADA

#### Co-operation of Canada in Air Communication Schemes

MR. MACKENZIE KING: Prime Minister, we have, I think, been thrilled, if I may use that word, by the survey that has been given us by the Secretary of State for Air of the Air Communication programme of the Empire. It is difficult to find words wherewith adequately to describe it; it was certainly fascinating, one would be inclined to use the word "romantic" if one did not know how practical the Secretary of State for Air is. I think I may say it is prophetic. It certainly suggests a solution of many of the problems of communication between different parts of the Empire to which hitherto distance has presented formidable barriers. Following the comprehensive survey of the Secretary of State for Air, I rather hesitate to say anything about what Canada has been seeking to do by way of developing its Air Service in co-operation with other parts of the Empire, but it might be of interest to say a few words on what has thus far been attempted. May I, first, say in regard to the specific request which the Secretary of State for Air has made that the Canadian Government will only too readily co-operate with the British Government in the way he has suggested, by immediately taking steps to see that mooring masts to secure the landing places for airships in Canada are erected; also that the work of meteorological organisation is commenced forthwith.

### Progress of Civil Aviation in Canada

Canada is assisting civil aviation by doing pioneer work; by establishing air harbours and aerodromes; by training civilian pilots; by design and manufacture of new types of machines, and by the training of mechanics in technical schools.

The extent to which Canada has carried out civil aviation work is reflected in the memoranda supplied for the use of this Conference, where considerable prominence is given to the Aerial Survey and Forestry Protection work carried out in the Dominion.

Canada is well supplied with railways. Thus far, therefore, aerial transportation in Canada has been confined to the remoter districts, where there is little or no traffic. Each year a certain number of passengers have been successfully carried, chiefly police, prospectors, mining engineers, forest rangers, explorers, Indian agents making treaty payments, &c. These have been conveyed in a few hours across undeveloped country, where the only other means of transportation was by canoe or on foot, involving journeys of weeks.

In other directions civil aviation in Canada has reached a comparatively advanced stage.

#### Air Survey Work

Air survey work has been developed to a greater extent probably than by any other nation, and a great deal of mapping of undeveloped and unexplored country has been accomplished, or is in the programme for future work.

Aerial photography has been greatly developed and the visits to Canada of Colonel Winterbotham of the Geographical Section, General Staff, War Office, and Colonel Ryder, of the Aerial Survey Company, have helped to bring about close co-operation between Canada and the other parts of the Empire, to the mutual benefit of all concerned. Our aerial survey work is assisting in the development of the new mining areas in different parts of Canada. When the Red Lake district was opened up in the spring of this year maps were available for the whole area for the use of the pioneers coming in. This would have been absolutely impossible but for the aerial surveys carried out by the Royal Canadian Air Force and Topographical Branch, Department of the Interior.

Aerial photography has also revolutionised the method of timber cruising—determining the character of the timber in any area. It is easy to detect the different types of timber from an aerial photograph, and a far more detailed knowledge may be thus obtained of the character of a forest area than by the earlier methods and in a fraction of the time.

Another main duty of the Aerial Services of Canada, Dominion and Provincial, is Forestry Protection. In no part of the world has it reached such a state of efficiency as in Canada. Daily patrols of the forest areas are carried out, reports sent by wireless telegraphy and telephony immediately a fire is



spotted, and fire fighting personnel and equipment carried to the scene. In this connection, the use of wireless telegraphy and telephony both ways—from the aeroplane to the station and from the station to the aeroplane—has been brought to a high state of perfection.

Research work has been carried out by a Committee under Colonel Tory as Chairman as the result of the last Imperial Conference, and a certain amount of research work in aerial dynamics has been accomplished at Toronto University.

Canadian representatives are now in daily touch with those in charge of civil aviation and with companies undertaking aerial surveys in the British Isles and other parts of the Empire.

We have effected an arrangement with the Air Ministry whereby we will interchange with them a Civil Aviation Officer so that Great Britain and Canada will each be able to benefit by the experience and work of the other.

We have developed machines specially suited to Canadian conditions, both seaplanes and aeroplanes being manufactured in considerable numbers. Generally, all possible encouragement is being given to the manufacture of aircraft.

Other channels into which civil aviation in Canada has been directed are:

The investigation of rust diseases in wheat in the Prairie Provinces,  
and the method of transmission of the spores.

Fisheries Protection Service.

Prevention of smuggling.

The following are some statistics relating to the year 1926:

56 million acres of forest patrolled on fire duties.

227 fires spotted.

224 fires suppressed.

8,335 square miles of vertical survey carried out.

40,000 square miles of oblique survey carried out.

It may be claimed that aviation has a great future before it in Canada in the development of the unsettled parts of the country. It will be useful, for instance, in the near future in opening up the country in the northern part of Saskatchewan, where a great National Park is projected.

Perhaps it may be said, without any idea of boasting, that Canadians have a special aptitude for flying, as borne out by the fact that 10,000 were engaged in flying duties in the Royal Air Force during the late War, and among them were some of the most notable pilots.

As civil aviation has a direct relation to the creation of a Military Air Force and serves to create a reserve thereto, in this field Canada may be in a position to lend very great assistance in Imperial Defence. By the Air Force Regulations an individual who obtains a pilot's certificate automatically becomes a Reservist.



Regulations have been prepared governing the formation of an Air Force Reserve and outlining the organisation of an Aviation Association with branches in each Province.

Finally, when it is desired to extend an airship service to Canada the Canadian Government will be ready to consider methods of co-operation, as for example, as I have already mentioned, by the establishment of air bases. Possibly Canada will also be able to assist by the provision of helium gas, which can be extracted in the Dominion . . . .

Canada suggested as the Venue of the Imperial Air Conference

MR. MACKENZIE KING: Might I add that the Secretary of State for Air made mention of a possible Imperial Air Conference being held in the near future? On behalf of Canada, I would like to say at once that it would be a source of great pride if it could be held in the Dominion . . . .

116.

*Extraits du procès-verbal du sous-comité sur la procédure  
en matière de Traité*

*Extracts from Minutes of Sub-Committee on Treaty Procedure*

First Meeting

October 28, 1926

SECRET

THE CHAIRMAN said that the first question to consider was whether the memorandum<sup>1</sup> should be read or should be taken paragraph by paragraph.

MR. LATHAM queried the usefulness of going into the strictly legal aspect of this document when no decision with regard to the general policy had yet been come to and communicated to the Sub-Committee by the main Committee on which the Prime Ministers sat. This Committee had as yet no sailing directions.

MR. LAPOINTE said that at the Prime Ministers' Committee the principle of equality had been generally accepted, and, since this memorandum seemed to be directed towards the application of the principle of equality in the form of treaties, it seemed to be possible to consider it on that basis.

GENERAL HERTZOG said that we must start on the assumption that we all stand on a basis of equality, and, as he understood it, the memorandum E. 104 explained in what respects the existing procedure in drawing up the form of treaties did not give expression to the accepted principle. The Sub-Committee was here to consider whether the changes proposed would be more indicative of complete equality. All were agreed at the Committee that equality of the parts of the Empire was the only basis on which to proceed.

<sup>1</sup> Mémorandum E.104, intitulé *Form of Preamble and Signature of Treaties*, soumis par la délégation britannique. Non reproduit.

<sup>2</sup> Memorandum E.104, entitled *Form of Preamble and Signature of Treaties*, presented by the British delegation. Not printed.

MR. COSTELLO said that he was prepared to discuss the legal aspect of paper E. 104, but not questions of policy. It was agreed to proceed on this basis.

SIR C. HURST, on the invitation of the Chairman, explained several points. He said that the Foreign Office considered that there were points in the present procedure that were unsatisfactory from the point of view both of the Dominions and of Great Britain. The origin of the whole difficulty was really the peculiar form which the Annex to the Covenant took, as explained in the footnote on page 1 of the memorandum. No mention was here made of Great Britain as such. The only heading under which Great Britain came in was that of the British Empire. The Dominions thus came into any treaty under their own names, whereas Great Britain was not mentioned as such at all, but only participated by a share in the general term "British Empire," which covered all the Dominions as well.

This was unsatisfactory from the Great Britain point of view because it left the position obscure, and from the Dominion point of view because it made it appear as though Great Britain were the whole British Empire. The scheme adopted in the memorandum was to retain the expression "British Empire," because it was used in the Covenant and also because it was necessary to retain in treaties some general expression covering the whole of the territories which acknowledged the King as their political Head in order to make it plain that the different parts of the King's territories which were signatories to treaties stood in a different relation to each other than they stood towards other States. On the other hand, as could be seen by reference to Annex II, it was proposed to eliminate the confusion to which he had referred by inserting after the words "British Empire," the expression "Great Britain and Northern Ireland and all parts of the Empire which are not separate members of the League, Canada, Australia, New Zealand, South Africa, the Irish Free State and India." . . .

DR. SKELTON observed that the term "British Empire," as used in the Annex to the Covenant, covered the whole Empire, but its use in treaties had led to a number of practical difficulties and inconsistencies, *i.e.*, it was the British Empire in name but Great Britain in reality which paid the contribution of so many units to the League; it was the British Empire in name but Great Britain in reality which had representatives in the Assembly, &c., &c. If Great Britain was to be retained as a collective name, it was desirable that the present practice by which "British Empire" in fact means "Great Britain" should be abandoned. The first question was whether we were to endeavour to make the practice in the matter of treaties conform to the changing relationship of the different parts of the British Commonwealth, or to make them conform to certain inherited terminology, such as is found in the Annex

to the Covenant. There was also the question of principle involved, whether this organisation to which we all belong is to be considered one international unit or an association of international units.

MR. LATHAM said that he had some suggestions to make to this meeting, but no conclusions. (The Chairman said that that was clearly understood.) He was merely thinking aloud, and on this basis he suggested that in treaties the term "British Empire" should only be used in the case where a treaty was made for the whole of the British Empire in the territorial sense of all the areas of the world which, in whatever form, acknowledged the sovereignty of the King; but in treaties where some parts only of the Empire were concerned, the form might be as follows: "Great Britain and Northern Ireland, and Canada (as parts of the British Empire)." As to treaties made in the name of the King, he suggested that the form might be as follows:

"The King, &c., &c. . . . for Canada . . . by *A. B.*

"The King, &c., &c. . . . for Australia . . . by *C.D.*"

&c., &c.

SIR C. HURST observed that Mr. Latham's suggestion that when only one part of the British Empire made a treaty it should be in the form of "Canada, as part of the British Empire," possessed considerable advantages, for if at a subsequent date another part of the Empire desired to become party to the treaty by accession, its accession could also take the same form.

GENERAL HERTZOG said that Mr. Latham had made a suggestion which, in fact, came very near his own. He had, however, one very slight objection to make to it. Mr. Latham's formula amounted to saying that Canada made a treaty as part of the British Empire, whereas his own formula was that Canada, being a part of the British Empire, made a treaty . . .

SIR C. HURST said that the exchange of views had been very interesting, and that it appeared that there was a general consensus of opinion that some comprehensive term was required which would cover the whole Empire, whether it took the form of the King's title or some other designation, such as "the British Empire," or a synonym, in order to make it plain that the States who were members of the Empire stood in a different relation to each other than towards other States. The different parts of the Empire contract on the footing that they belong to a larger political group in addition to having their own separate political entity. His personal view was that it was desirable that the term "British Empire" should be preserved as the designation of the whole territorial group which looked up to the King as its political Head. Moreover, the use of the term was of advantage, inasmuch as it was employed in the Covenant of the League.

It was agreed that Mr. Harding should endeavour to arrange with Sir M. Hankey for a further early meeting of the Committee.

117.

*Extraits du procès-verbal du sous-comité sur la procédure  
en matière de Traité*

*Extracts from Minutes of Sub-Committee on Treaty Procedure*

Second Meeting

November 1, 1926

SECRET

SIR CECIL HURST: I must say, if I may express a view, that it would be a great advantage to the Committee to take this document and discuss it paragraph by paragraph without in the least assuming that such discussion will be regarded as having committed or commits any Government represented here to acceptance of the lines on which it is drawn up. This document has this advantage, that it is an attempt to deal on a coherent basis with the problem as a whole. Assuming that our task is that we have got to correct the systems that are at present in use for signing treaties because they do not give satisfaction, we must all be clearly at one to know in what respect the existing forms fail to give satisfaction. It may well be that the representatives of particular Governments are satisfied with one aspect which dissatisfies another Government, and I think the discussion of this document would be useful to clear up the position and to see what points in the existing system give dissatisfaction in particular quarters. Then we shall be in a much better position to correct the system.

GENERAL HERTZOG: That is exactly what I want.

SIR FRANCIS BELL: I should like to have the view of General Hertzog, who was present at the Conference with Mr. Latham the other day. Is it not probable that our discussion here may lead to results which will be in conflict with what you and the Prime Ministers are discussing—a question quite relevant to this—in another room? . . .

GENERAL HERTZOG: I would answer that question by saying that there is, of course, a possibility—but I do not think even that there is a probability—of clashing. We can only see that when we come to deal with the different paragraphs. . . .

MR. LAPOINTE: I think what we are on here is quite apart from what was being discussed in the other room. Everybody thinks that there are some anomalies existing; Sir Cecil Hurst said the other day that Great Britain appears imperfectly within the description "British Empire"; some of the Dominions complain that they are appearing too much—first in the "British Empire" and then separately. What we are doing here is trying to find some methods of description that would harmonise with the views of all.

SIR FRANCIS BELL: You say it is a matter of form and words and of legal interpretation. That I am quite agreed on, that that is the basis on which we are to arrive at a conclusion; but I did not think that would satisfy the General, or Mr. Costello.



MR. LAPOINTE: We are all agreed on the equality of status. . . .

GENERAL HERTZOG: I am very sorry to take up your time, but it seems to me that we are going to use certain terms. We must be agreed as to the true meaning to be attached to such a term. We must say if we are going to use the words "British Empire" and, if so, in what sense we are going to use them. Let us take just this. We have, for instance, the way in which the Treaty of the Covenant was signed. Great Britain was in it, and it includes also India. Now, here we have, as I take it, Great Britain and the self-governing Dominions; India is not included in this. We have, therefore, to do with the separate entities; India has been made a member of the League of Nations. So far as the League is concerned it is probably necessary, if we want to use the term inclusive of India, that we shall have to use the term differently from the term which we are going to use when we speak of ourselves exclusive of India—of Great Britain and the Dominions. Let me say that upon reading that document to which I have referred, it is curious that you see that the draftsman found himself compelled, it seems, not to use the words "British Empire," but to use the words "Commonwealth of Nations." It is evidently clear that he felt at once when he came to speak of the position of Great Britain and the Dominions that he could not apply the same term as was used in Geneva for the Covenant of the League for the same entities, but with India included. He had to deal with a narrower set of entities, and he almost constantly uses the words "Commonwealth of Nations" instead of "British Empire."

MR. LAPOINTE: You mean in this document.

GENERAL HERTZOG: I refer to the document, published in the discussions of the Imperial Conference of 1921, Volume III, No. 6. It was drafted by the Colonial Office, and amongst other things, purports to give the actual constitutional position of the Dominions. . . .

DR. SKELTON: A great deal of the difficulties seem to come from the use of a phrase which is a general loose term, "the British Empire," which is apparently taken to mean all the realms of His Majesty. We have tried to give it a precise definition. I do not see that any suggestion for redefining it wholly escapes some anomalies. If now, as General Hertzog suggests, we are to go on and introduce another term, "the British Commonwealth of Nations," and give it a definite, precise and legal meaning, I think we are going to have more difficulties. Is not a good deal of the difficulty owing to the fact that in League treaties the form followed involved giving a list of the contracting parties to begin with? I should like to ask Sir Cecil Hurst whether that is absolutely necessary; if it is not, a good deal of our difficulty will be got round. There is not so much difficulty when it comes to giving the name of His Majesty as the contracting Party. Why cannot we follow this form in League treaties as in non-League treaties.

SIR CECIL HURST: I do not think there is any reason why we should not. That is a change of practice which it will be difficult to achieve, but fundamentally I do not see any reason why we should not. These formulae which



are now employed in what are known as League treaties, that is to say, treaties negotiated and concluded under the auspices of the League, have always followed the precedent set in the Treaty of Peace itself, and the Treaty of Peace itself began with a list not of the Heads of States, but of the actual Powers themselves. It begins with the words: "the United States of America, the British Empire, France," and so on. Those terms had always been used in the actual wording of the Peace Conference at Paris, and these are the names which are reproduced in the membership of the League, but I do not believe there is any reason whatever why we should not endeavour at Geneva or any future conference under the auspices of the League to try and secure that League treaties should in future be drawn up in accordance with the practice of setting out not the names of the States, but the names of the Heads of the States, that is to say to begin with, not the French Republic, but the President of the French Republic. If we can effect that change it will in many ways simplify our task. . . .

## 118.

*Extraits du procès-verbal du comité des relations intra-impériales*  
*Extracts from Minutes of Committee on Inter-Imperial Relations*

Fourth Meeting

November 2, 1926

MOST SECRET

MR. O'HIGGINS stated that it might be desirable to supplement the Memorandum (E. 115), which the Irish Free State Delegation had circulated to the Conference, by some reference to the history of the question. In June, 1922, when the Constitution was under discussion, the Prime Minister (Mr. Lloyd George) addressed a letter to the Irish Free State representatives asking for specific answers on six questions, one of which was: "Was it intended to provide for appeals to the King in Council?" In their reply to this question, the Irish Free State representatives argued that there was a difference between a composite State, such as Canada, and a unitary State, such as South Africa or the Free State. In the former there might be need for an outside tribunal to deal with questions which arose between the State Governments and the Federal Government, but there was no such need in a unitary State. The Free State representatives were, however, assured that the practice of the Judicial Committee would be the same in the case of appeals relating to the Irish Free State as in the case of appeals from other unitary States, and that appeals would only be admitted in cases of the first magnitude. They were further assured that the appeal to the King in Council was a necessary corollary of the Treaty, and they then accepted that view, with the result shown in Article 66 of the Constitution.

Since that time the practice with regard to such appeals from Irish Free State courts—perhaps for reasons of geography—had tended to differ from that observed in the case of appeals from other Dominions. The Irish Bar

liked the appeal, but, if a plebiscite were taken, they would be the only persons in the Free State who would favour its continuance. The appeal to the King in Council was regarded in Ireland as a rich man's appeal. Having now a greater familiarity with the constitutional mechanism of the British Empire, the Free State were inclined to doubt whether the continuance of the appeal was a necessary consequence of the Treaty. Was it maintained that it was not open to other Dominions to restrict or abolish the appeal if they so desired? Those who retain it, retain it because they need it and value it, and not because they are compelled to retain it. He put it to the Committee that it was open to any State in the Empire to say that they desired to dispense with the appeal, and that was the point which he hoped the Committee would discuss. . . .

THE LORD CHANCELLOR stated that the question whether provision as to an appeal from the courts of the Irish Free State to the King in Council should appear in the Constitution was specifically discussed when the Constitution was framed in 1922, with the result which appears in Article 66 of the Constitution. The appeal flowed from the Treaty. He did not know what had taken place on this point during the discussions leading up to the Treaty, but he accepted Mr. O'Higgin's statement as to the South African analogy. He could not agree, however, that that analogy had not been followed. The practice of the Judicial Committee was to refuse leave to appeal unless some important principle of law or some question of wide public interest was involved. That rule he accepted, although he admitted that whether it had been followed in past cases might be a matter of opinion. Leave to appeal from the Irish Free State Courts had, so far, been given in only two cases out of about ten, and in only one of those had any objection been taken. In that case the Irish Free State Government had taken action, which was he admitted both ingenious and effective, in that it had passed a law that the Act on which the question arose was to be interpreted in the manner decided by the Supreme Court of the Irish Free State, from which leave to appeal had been granted. The result was that, as the Judicial Committee would be bound by that legislation, any appeal would have been ineffective, and the appeal was therefore withdrawn.

As to the value of the Court, he had, of course, nothing to say. It was composed of very distinguished lawyers, not only from this country, but from the Dominions. Mr. Justice Duff of Canada constantly assisted them. Last year they had on the Board the Chief Justice of Canada, Mr. Anglin, and two years ago Sir Adrian Knox, the Chief Justice of Australia. It was a Court which was perhaps better fitted for its particular function than the House of Lords.

The question which Mr. O'Higgins asked is: Can any one Dominion abrogate the right to grant leave to appeal to His Majesty in Council? As a matter of *law*, he was satisfied that any such abrogation could only be effected by an Act of the Imperial Parliament, but he thought that all the Governments there represented would hold that, if the Dominions thought that there ought to be a change as regards the appeal then their opinion

would merit the most serious consideration. But this was a question which affected the whole Empire. The appeal was one of the central prerogatives of the Crown; it was one of the links which bound the whole Empire together. If there was a grievance, it must be dealt with on its merits, but if, in fact, there was no active grievance, they should hesitate before they weakened that particular prerogative. . . .

MR. MACKENZIE KING asked whether he was to understand that the Lord Chancellor held the view that the prerogative right could only be affected for any Dominion by the unanimous consent of all the Dominions. He admitted that Imperial legislation would be required in order to affect the prerogative right, but he thought that, if any Dominion asked for such legislation, the request should receive the sympathetic consideration of the British Government.

THE LORD CHANCELLOR and LORD BIRKENHEAD assented.

MR. LAPOINTE said that the Judicial Committee as an institution was highly valued in Canada and a large majority of the Canadian people desired to preserve the appeal, but there had been a great deal of comment on the "Nadan" case. In Canada they had always claimed that the Canadian Parliament had plenary power within its jurisdiction, but the Judicial Committee had decided, by virtue of the Colonial Laws Validity Act, that this was not so in judicial matters, and the principle of equality of status had thereby received a decided set-back in Canada. They had managed to postpone discussion of the matter in Parliament so far, but it would certainly come up next session. The Canadian Government would probably have to ask the Imperial Government to legislate so as to meet the Canadian wishes as regards criminal appeals. He asked whether the Imperial Parliament could not regard the Canadian Act of 1888, which had been found to be invalid, as an expression of the will of Canada, and take action to give effect to that will without the necessity of an address from the Canadian Parliament being presented for that purpose.

THE LORD CHANCELLOR said that, if the Canadian Government asked the Imperial Government to adopt that course their request would certainly have very great weight. He repeated that legislation here would be involved.

THE ATTORNEY-GENERAL explained that, in arguing the Nadan case before the Judicial Committee, he had, of course, been dealing solely with the interpretation of the Statutes as they stood. Any question of policy was for the Government and not for the Courts. . . .

LORD BALFOUR said that two propositions appeared to him to emerge from the discussion. First, that the Committee was of opinion that it was no part of the policy of the Empire to maintain an appeal to the Judicial Committee in any of the self-governing Dominions against the wishes of its inhabitants. Secondly, that in many parts of the Empire the services of the Judicial Committee were greatly valued.

MR. COSTELLO said that he wanted to safeguard the position from the legal point of view. The Irish Free State Government contended that the Colonial Laws Validity Act did not apply to the Irish Free State, and they were therefore unable to subscribe to the view that, if they desired to abolish the appeal, Imperial legislation would be necessary, as in Canada, to carry that desire into effect. . . .

After some further discussion, it was agreed:

1. That Lord Balfour's first proposition should be circulated to the members of the Committee forthwith (a copy of this is attached as an Appendix).

2. That members of the Committee should be invited to circulate any modifications therein which they might desire to have discussed.

The question of a meeting between Lord Birkenhead and Sir Douglas Hogg (or other Ministers) and the Representatives of the Irish Free State to consider whether, without prejudice to the wider claim of the Irish Free State, it was possible to arrange for the principles upon which leave to appeal should be granted in the future to be more precisely defined was left over for further discussion.

## APPENDIX

### LORD BALFOUR'S FIRST PROPOSITION.

The Committee is of opinion that it is no part of the Policy of the Empire to maintain an appeal to the Judicial Committee of the Privy Council in any of the self-governing Dominions against the wishes of its inhabitants.

119.

*Extraits du procès-verbal du sous-comité sur la procédure  
en matière de Traité*

*Extracts from Minutes of Sub-Committee on Treaty Procedure*

Fourth Meeting

November 3, 1926

SECRET

MR. LAPOINTE: I will read the various paragraphs from 5 to 11 of the paper E. 104. . . .

SIR CECIL HURST: I do not know, Mr. Chairman, whether you would like any very lengthy explanation of the system of nomination of plenipotentiaries on the Central Panel, because the matter is really condensed in these paragraphs you have just read. The historical origin of this system is, I think, to be found in what happened in Paris in 1919. We had, of course, during the War fought as one, and therefore it seemed natural also that we should make



peace as a unit; but there were present at Paris representatives of the great Dominions, and they naturally felt that it was essential for their own peoples and for their own Parliaments that the signatures of men acting on their behalf specifically should also appear. These were appended to the Peace Treaty, and consequently from that historical circumstance there grew up this dual system. Now we, perhaps, in London become at times a little more impressed with the necessity for laying stress on what I may term the unity side of the question than always happens to the Ministers and the Governments of the self-governing Dominions. This is the aspect of this whole question which, so far as concerns what I may call the unity side of our work, really arises in connection with our relations with foreign Powers, and we in London have to bear the brunt of that work. It is no use concealing from ourselves the fact that foreign Powers are always on the watch to see whether they can discover any signs of want of union, any signs growing up of disunion, as between the various constituent elements of the British Empire. The more they see that there are such elements, or apparent elements, such fissures in the armour, if I may so describe them, the more they hope there will be an alteration in the position which ultimately, and in the long run, may tend to their advantage. We, I suppose, in London, being, as I say, the portion of the Empire most closely in touch with foreign affairs and foreign nations, are consequently more impressed than some of you are with the necessity of laying stress on anything which tends to symbolise and ensure the recognition by other people of that peculiar element in the Empire which causes us to stand on a different footing towards each other than we do to foreign Powers. The system that grew up in Paris has been continued in use up to the present day; it works, as is explained in these paragraphs, by the fact that you get, owing to this, what we call the Central Panel Plenipotentiaries, one signature which can be pointed to, in so far as our own relations with foreign Powers are concerned, as covering the whole of so much of the Empire as becomes a party to the treaty. Consequently, if any foreign Power goes to any part of the Empire and says: "Canada signed this separately, Australia signed this separately, and we assume that the other signatures we see only affect Great Britain," we can say: "No; those signatures which you see there are not merely a signature covering Great Britain, but cover the whole of the Empire. So much of the Empire as is a party to that treaty is there as a unit, and as a unit is not in relation to other parts of the Empire a separate contracting party from them." Consequently, we do thereby immensely diminish the risk of any demand on the part of an extraneous organ, such as the Council of the League or the Permanent Court of International Justice—if it is a treaty which provides for reference of disputes to such a tribunal—intruding into what really is a purely domestic affair.

That is the advantage we see from the point of view of our relations with foreign Powers. You have to look at the point of view of how it strikes your own people, your own Parliament and your own work in your own countries; but that side of the system is perfectly safeguarded by the fact that you do have your own plenipotentiaries nominated by a full power which indicates



their responsibility to your own Government and to your own people, and, consequently, that is a side of it which is really of importance from your point of view. From the point of view of foreign Powers, we get the advantage of one signature covering the whole unit; from the point of view of your Governments, you get a signature which is that of your own plenipotentiary acting on behalf of your own Government. One can see, perhaps, that, like other matters, it seems to be a survival that implies, or might be thought to imply, something in the way of subordination of one part of the Empire to the other. Now, if you will look really into the details of this system, you will see there is nothing of the kind. It is not in the least essential that what we know as a "central panel signature" should come from any part of the Empire more than any other part of the Empire; the system of a central panel could work perfectly well if the central panel signature was not that of the Government in London, but was that of the Government in New Zealand or the Government in India. Technically, the important element in the system is that there should be one signature which binds the whole or so much of the Empire as is a party to the treaty. As you may know, it is not our custom to allow that signature to be binding on those parts of the Empire who do not wish to be included in the treaty; on the contrary; the man who signs on behalf of the Central Panel affixes to it a declaration that his signature is not to cover any part of the Empire which does not accept the treaty through its own plenipotentiary. . . .

DR. SKELTON: I think, Mr. Chairman, it is quite correct, as Sir Cecil Hurst has emphasised, that the whole procedure [in signing the Treaty of Versailles in 1919] arose naturally, and perhaps almost inevitably, out of the circumstance which existed during the war and at the time of the Peace Treaty. The ambiguities and anomalies that have since come more clearly to light were implicit from the beginning in the form in which the Treaty of Versailles was drawn up. The very fact that the British Empire was the only State mentioned in the preamble and that the Dominions were mentioned when it came to the signature, but still were indented, made it very clear that the situation had not been wholly clarified or made consistent. One point which, to my mind, would carry weight particularly in favour of the preservation of the present system would be if, as a matter of fact, it was the best means of indicating in the long run to foreign countries our desire to remain united. Well, frankly, I doubt if it is. I think that argument might have been advanced at any stage in the past fifty years in the evolution of self-government among the Dominions. I think that side by side with the development of the self-governing status of the Dominions and its recognition by foreign countries there has come also a recognition of the greater strength and stability of the British Commonwealth. Foreigners are much less expecting to see a break-up now than they were twenty or thirty years ago—naturally so. The only danger, I agree with Mr. Fitzgerald in that, to our unity lies rather in the preservation of possible sources of irritation, so long as it is not clearly demonstrated that they are essential for a greater need. The whole system of the central panel seems to me to be quite inconsistent with the idea of any

equal status, either in the League or elsewhere. The very fact that the excluding clause is brought in simply emphasises the fact, as has been indicated, that it is by the grace only of the British plenipotentiaries that the Dominions are allowed any distinct position at all. Nor could I agree that there has been no objection or comment upon it. I have seen a good deal of both continental and United States criticism to the effect that the position of the Dominions in the League is a sham because of the fact of the different ways in which it is made clear that it is really the Central Government which controls. I recall in our own Parliament a member stating that the whole system was a sham because our separate signature after the signature of the British plenipotentiary amounted to no more than putting a postage stamp on a franked letter, which was quite superfluous. I quite agree with Sir Cecil Hurst that we should reserve our judgment on many of these matters because they have very wide-reaching implications, and until the discussion was concluded and until we have had an opportunity of looking at the question as a whole, it might be difficult for us to come to any really valuable conclusion; but at first glance, certainly, it seems to me that the anomalies which exist under the present system should be removed, and I cannot see why it should not be possible to meet in some other way any possible difficulties that might arise from their removal. . . .

GENERAL HERTZOG: Our point is this. The Central Panel has the full power to sign. What we say is that we ask by whose advice that is done. Now on the document itself, it is by the advice of Great Britain. If you say to us this Central Panel can be asked not to do it and will not do it until after consultation, &c., then we still say: "Yes, we must sign on behalf of us all." Then the King has to give that Power twice over, whereas here the Central Panel is taken to represent all, the plenipotentiary is appointed by the King on the advice of the British Government. We say "No; if they are to act upon the advice of the British Government, that is to say, upon the power given to them by the King on the advice of the British Government, then that power should not extend beyond Great Britain, and it should not affect us." That is the point that is overlooked—no matter what consultation there may be. But what we feel is this, that if power is given by the King, that power must be to bind that part of the Empire upon whose advice it is issued. This is not the case; you cannot get away from it. It is the very fact for settlement, whether we shall leave it as it is—and, speaking on behalf of South Africa, I say there is no doubt that South Africa does not want to have its rights acquired or have itself bound in any way except upon instructions issued by the King and plenipotentiaries appointed by the King on the advice of his own South African Ministers.

MR. LATHAM: I think all the Dominions agree on that.

SIR CECIL HURST: There is no difference really anywhere.

GENERAL HERTZOG: Then the Central Panel must go.

SIR CECIL HURST: No, your objection is not to the Central Panel, but to the method by which at present the full power comes into being.

DR. SKELTON: Not wholly. It is quite true that there are cases where it would be convenient to have a single person signing for all on the advice of the Governments; but I do now know that we want to consider that as the sole point, and I take it there would be grave objections to the Central Panel system either if the plenipotentiary of the Central Panel is nominated on the advice of the British Government, or if he can only be nominated on the advice of all the Governments. The tendency then would be towards frustrating the intention of the Empire, and would not be in the direction they intend to go. . . .

MR. COSTELLO: Perhaps Sir Cecil Hurst would submit to one more question from me, the only one I wish to ask. Would not the adoption of the Central Panel system have the effect, with the signatures on behalf of the various Dominions who subsequently adopted the treaty and became bound by it, that foreign Powers would look at the signatures of the Dominions concerned merely for the purpose of construing the treaty, finding its scope and effect, and in that way the Dominions would not in any real sense be parties to the treaty, but their signatures would be there merely for the purpose of giving the necessary scope and effect to the treaty, so that the foreign Power would look at the particular Dominions' signatures to the treaty merely for the purpose of construing the treaty and finding out its scope and effect; and the adoption of the Central Panel system, if that is correct, would have the effect of completely submerging such national identity as the Dominions possess at present? There would only be really two parties to a treaty, one the foreign Power, the other the Central Panel Power, and the signatures of any other nation or Dominion that would be appended would be there merely to explain the scope of the Central Panel Power's signature and the construction of the treaty, and the signatures of the Dominions would not be there in any possible international sense whatever.

SIR CECIL HURST: I do not myself believe that that either is or would be the effect, and I am perfectly certain there would be no justification for it. It is not really what I might call the foreign man-in-the-street, whose views we have to take into account; it is something like a foreign international tribunal. There is the possibility of misunderstanding. If you had some system under which, after the name of the King, there came this list of people: "For Great Britain, &c.: A.B."; "For Canada: C.D."; "For Australia: E.F."; and so on all down the scale; "For the Irish Free State: P.Q."; and at the end of it: "For all parts of the British Empire accepting this treaty: X.Z."; surely, in face of that, who could say that the identity of the constituent autonomous parts of the Empire was submerged? And there you get just that element that we could point to, what I call the signature of a common plenipotentiary, which at the moment when it became necessary to do so would enable us to go to foreign States and say: "No, Great Britain, Ireland, Australia and Canada are not separate parties to the treaty; the whole Empire for the purpose of this treaty is a unit, and there is the common signature which indicates it."

DR. SKELTON: Does not that imply only one unit in the League of Nations, and that the British Empire?

SIR CECIL HURST: Surely not.

DR. SKELTON: You started by saying there would be no objection, and I think we would all agree to that, to, let us say, Australia and Canada, if they wanted to form a treaty jointly, appointing a common plenipotentiary, and so on. In the same way, if each of the parts of the Empire wished to make a treaty on the same subject, they could all appoint the same plenipotentiary; but there is a very great difference when you bring in, in addition to Great Britain, Australia, Canada, and so on, the concept of the British Empire as something distinct from them and really constituting the member of the League. That is our difficulty.

SIR CECIL HURST: We were not worrying about the member of the League; I was struggling to get something on the face of the treaty which would always enable us to say in a conclusive and satisfying way to any international tribunal or any international organ that was faced with the fact: "There on the face of that document is a signature which operates on behalf of all of us and makes us a unit for the purposes of this treaty and so far as concerns our relations with a foreign Power."

DR. SKELTON: But in which direction are apparent misunderstandings likely to come at the present time? Are they not more likely to underestimate the distinct status of the Dominions in the League under the present form than to underestimate the unity which prevails amongst us and which they have seen tested and know will prevail?

SIR CECIL HURST: Personally, I should have said, after a good many years' experience of constant attendance at Geneva, that the answer was no. To anyone who has had practical working experience by the League at Geneva, as Mr. Lapointe himself has had, all the people who are gathered together at Geneva must distinctly realise the separateness of the constituent autonomous elements in the Empire. I should say the greater risk was the other. It would be very interesting to hear Mr. Fitzgerald's comments on that point, because he also has had considerable experience at Geneva. Do you find, participating at Geneva in a gathering of the League, that foreign Powers in the least fail to realise the fact that the Irish Free State is a separate member of the League?

MR. FITZGERALD: Well, I think rather, yes; and, as far as our national psychology is concerned, certainly that would make it more necessary for us to stress that point than to press anything else. For instance, in September, when Spain withdrew, I know there was talk among pressmen, and they looked round first of all to see who should take Spain's place, and said: "What about the Dominions?" It was said immediately that the Dominions are represented on the Council by Sir Austen Chamberlain. . . .



120.

*Extraits du procès-verbal du comité des relations intra-impériales**Extracts from Minutes of Committee on Inter-Imperial Relations*

Fifth Meeting

November 3, 1926

MOST SECRET

LORD BALFOUR said that, as the question of the laws relating to merchant shipping had been raised by the Irish Free State delegation, he thought that it would be most convenient if the representatives of the Free State would in the first place make a general statement as to the position.

MR. MCGILLIGAN then made the following statement. . . .

LORD BALFOUR said that Mr. McGilligan's very able and learned exposition was chiefly devoted to showing that in the evolution of the British Empire certain inequalities had been allowed to remain as regards various questions of maritime affairs. On the general principle of equality of status there was no difference amongst those present. But questions arose in connection with the practical needs of the Empire of functions as distinct from status. The practical aspects of the question could not be ignored, and it was necessary to consider whether the principle of differentiation of function between the various Governments to which he had alluded in his opening statement at the Committee's first meeting should not be applied to shipping questions. Mr. McGilligan was correct in saying that the present position arose from the Act of 1894, which was passed a long time ago. But this was itself a consolidating Act, not substantially altering the law of 1854. Legislation with such a history naturally presented anomalies. We must not merely ask whether in the working of the system there is a difference of function; the question arose what would be the practical effect if those who were called upon to administer mercantile shipping laws, *e.g.*, His Majesty's consuls in foreign countries, had to be guided by the laws of seven different parts of the Empire. Practical matters which had to be considered were questions arising as to the status of British ships in time of war, and as to courts appointed to deal in foreign ports with crimes and offences committed on British ships. We were separated by seas but united by ships. He pointed out that vital questions were involved relating, not merely to the constitutional point of view, but to national safety and prosperity. He suggested that the best course would be to appoint an expert conference, to sit after the Imperial Conference, to consider and report on the whole subject. He had tentatively prepared a draft of the terms of reference to such a conference, which could be discussed by the Committee. This was as follows:

To consider and report on the principles which should govern in the general interest the practice and legislation relating to the merchant shipping of the various parts of the Empire, having regard to the change in constitutional procedure which has occurred since existing laws were enacted.



These terms of reference involved a recognition of the change of position, and an implication of equality of status; they also implied the common interest of all parts of the Empire in peace and war and in the practical working of the organisation of British shipping. He would be glad to learn the views of those present on his suggestion. . . .

MR. LAPOINTE did not think that there was any objection to Lord Balfour's proposal, provided that the general principle of equal status were accepted. The views held in Canada were substantially those expressed by the representative of the Irish Free State. The question was not one of law but of policy. Canada had two huge coasts and the Great Lakes, and the general view was that she ought to control her own shipping legislation. . . .

LORD CAVE thought it desirable that the question should be treated as one of policy and not of law. If it were dealt with as a question of law, there were certain propositions in Mr. McGilligan's statement which he would be bound to question. The uniformity which it was desirable to obtain was difficult to secure consistently with general constitutional principles. He agreed that it would be desirable that there should be a specially qualified conference to deal with the question as a practical matter, and to report to the Imperial Conference or to the Governments of the Empire.

MR. AMERY said that Mr. McGilligan's statement would be very valuable, and he thought that there was little in it with which he personally would have to disagree. The broad principle involved was that where surviving forms were repugnant to the present constitutional position endeavour should be made to do away with them where they created inconvenience or serious misunderstanding. But some such forms might have a practical convenience. He thought that there was agreement that uniformity of merchant shipping regulations was most important. He observed that not the least important of the advantages of belonging to the British Empire was the fact that any British subject not only had the same status in all parts of the Empire, but also in a foreign country had an equal claim upon the the good offices of His Majesty's Diplomatic and Consular representatives, and that the rights secured under treaties for British subjects accrued to all British subjects. He thought that there was an analogy to this in the case of merchant shipping. The status of British ships was one which conferred great advantages which ought not lightly to be impaired. Dominion shipping might grow very rapidly, and there might be transfers of British ships from register to register in the Empire. This would, however, be impeded if the transfer involved loss of privileges. This was a question which should be looked into very carefully before any changes were introduced with a view to securing a less anomalous position from the point of view of the present-day constitutional position. As for the suggestions of immediate partial action it would be very difficult to induce the British Parliament to legislate at once to abrogate Sections 735 and 736 of the Act of 1894, if there were a prospect that later on Parliament would be asked to pass further legislation resulting from the deliberations of an expert conference, such as had been suggested. What was contemplated, he understood, was not a sub-committee of the present Conference, but a sub-conference

similar to that held in 1907. This was a highly complicated matter which would take months to discuss and could not be dealt with by a small Committee of the Conference.

LORD BALFOUR asked whether he was wrong in assuming that there was unanimity as to the adoption of his suggestion.

MR. MCGILLIGAN asked whether it was to be placed on record that the existing merchant shipping law was repugnant to the present constitutional position.

After some discussion the committee accepted Lord Balfour's proposal for the appointment of an expert conference, subject to any requisite explanation in the report of the Committee of Prime Ministers as to the circumstances leading to it, and, if necessary, consideration of the terms of reference of the proposed Conference when the draft report of the Committee came up for consideration.

In reply to an enquiry by Mr. Lapointe, Mr. Amery said he thought it would be desirable that the Expert Conference should meet as soon as possible after the termination of the present Imperial Conference.<sup>1</sup>

## 121.

*Extraits du procès-verbal du comité des relations intra-impériales*

*Extracts from Minutes of Committee on Inter-Imperial Relations*

### Sixth Meeting

November 4, 1926

#### MOST SECRET

LORD BALFOUR read the note which Sir Maurice Hankey had prepared as to the present position with regard to the various questions before the Committee, and asked which question should be discussed first.

MR. MACKENZIE KING observed that there were two leading questions—the representation of the Crown and the representation of the Government. His thought was that the Governor-General should be regarded purely as a representative of the Crown and not as the representative of the British Government, which should have its own separate representative.

MR. AMERY said that there were really two alternatives, whether to take first, the general conduct of foreign affairs or the constitutional point with regard to the position of the Governor-General and the representation of His Majesty's Government in the Dominions?

MR. MACKENZIE KING observed that the two really went together.

LORD BALFOUR said that if Mr. Mackenzie King thought that a good opening it would be well to begin with that.

<sup>1</sup> Les documents portant sur la Conférence sont reproduits au chapitre II, Partie 2, ci-dessous.

<sup>1</sup> Documents on the Conference are printed in Chapter II, Part 2, below.

MR. MACKENZIE KING thought that it ought to be clearly understood that the Governor-General was not the representative of the British Government or any department of the British Government, but solely of the King. Further, he was of opinion that the channel of communication for letters and telegrams with the British Government should be changed. If the Canadian Government was asked in Parliament to bring down papers it was necessary to reply that the correspondence came down from the Governor-General, who must be consulted, and this was liable to misunderstanding.

MR. BRUCE observed that this was not solely a matter of the channel of communication with the British Government. It would still be necessary before publishing papers in regard to any delicate negotiations, *e.g.*, Locarno, to ask the British Government whether there was an objection to the publication of the documents which had been received from them.

MR. MACKENZIE KING said that at present the Governor-General, who was the King's representative, was a post office, but communications did not pass through the King to Canada. He was thinking of the interest of the Crown in this matter. The mere fact that the Crown was connected with the communication of correspondence might bring the Crown into discussion. He was of opinion that the business between the Governments of Great Britain and Canada was sufficiently large to be dealt with in the same manner as was employed in the case of foreign Governments, many of which were smaller than Canada.

MR. BRUCE thought that there was not really any question of substance at issue. If the Governor-General attempted to hold up or alter any communication the matter would be different, but he was merely a post office. The question really was whether it was more convenient that communications should be sent direct or not.

MR. MACKENZIE KING said that in the old days the Governor-General went out under instructions from the Colonial Office. The status was changed, but the old methods remained, which left the impression that the Governor-General was still acting as the agent of the British Government. At present there was a danger of the Crown being brought in to the discussion, but if the British Government had its own representative in Canada and he made a mistake he could be recalled and the Crown would not be brought into it. At present the man really doing the business was the Private Secretary. The recent difficulties and troubles in Canada would never have arisen if it had not been that the Private Secretary was the real adviser of the Crown.

LORD BALFOUR said that he understood the proposal to be that, just as the Canadian Government had its High Commissioner in London so the British Government should have its High Commissioner in Canada.

MR. MACKENZIE KING said that that was his view so far as Canada was concerned, but that other Dominions might think differently. At present Canada had a High Commissioner who lived in the British Government atmosphere and could reproduce that atmosphere in his communications to

the Canadian Government. He thought that it would similarly be an advantage to the British Government if they had an English High Commissioner who could reproduce the Canadian atmosphere to them.

To-day everything had been reduced to despatches. In writing despatches much time was spent in framing the exact words, and even then they were liable to misconception. If, on the other hand, the British Government had its own representative in Ottawa, free to interpret the views of the Dominion Government in his own language, many things could be said of which no record need be kept. The despatches then would only be a record of what had actually been decided. In the case of relations with foreign nations it had been found a great advantage to get away from the written despatch to the personal interview, and he felt that the same was true of the relations of the different parts of the Empire with one another. He had in mind the establishment in the Empire of a sort of diplomatic representation such as existed in the case of the rest of the world. . . .

MR. AMERY said that personally he saw no objection whatsoever to the proposed change, and he could quite understand the misunderstandings that might have arisen on occasion. He only asked that before any resolution was passed the Governors-General might be consulted.<sup>1</sup>

SIR AUSTEN CHAMBERLAIN was a little anxious lest the big question involved might be lost in the discussion of questions of form. As he understood it, it was not proper nowadays to employ the Governor-General as the mouthpiece to expound the policy of the British Government, but that policy should be expounded by someone who was able to explain the views of His Majesty's Government and also able to ask for an interview with the Dominion Prime Minister if necessary. If the different parts of the Empire were to act together the great issue seemed to be not how to alter the system of communication, but how to create a proper channel which did not at present exist.

MR. MACKENZIE KING said that his idea was that His Majesty's Government should have a representative who could communicate confidentially the views of the British Government to the Dominion Government. . . .

SIR AUSTEN CHAMBERLAIN observed that it seemed to him that at either end there was a gap. There was no one in Canada whom the Prime Minister could send for to ask for explanations or who could, on instructions from here, give explanations as to some despatch or telegram. The Governor-General, who used to do it, now no longer did it. But here also there was no one to discharge a similar function. He thought that it was necessary to improve the liaison not only in Canada, but also here. It was desirable that Dominion Governments should appoint as their representatives here persons in possession of their mind. . . .

LORD BALFOUR thought that the discussion had been carried as far as it could be carried that day. He would naturally wish to inform the Prime Minister and his Cabinet colleagues before the matter was carried further. He

<sup>1</sup> Voir documents 10 et 11.

<sup>1</sup> See Documents 10 and 11.



gathered that the general view was that the employment of the Governor-General as the mouthpiece of the British Government had become obsolete, and that the duties of the representative of the Crown ought not to be mixed up with those of the representative of the British Government. The present system was apt to give rise to misunderstandings of a mischievous character. He thought that there should be no difficulty in having an improved method of intercommunication which would not involve the Crown and would enable Great Britain and the Dominions to communicate with one another more adequately and freely than they did to-day. He proposed to ask his colleagues whether they agreed with this view, and, if they did, they could then proceed to give the matter a second reading.

MR. COATES desired to make it clear, on behalf of New Zealand, that they would prefer to keep the existing system of communication and to see a linking-up of the Prime Ministers' departments. It would be a mistake, in his view, to do anything to diminish the dignity or the status of the Governor-General.

MR. AMERY said that Mr. Coates had made a very interesting suggestion, somewhat different in form from that of Mr. Mackenzie King, but not necessarily incompatible with it.

LORD BALFOUR said that it was quite evident that the application of the general principle would have to be worked out, having regard to the circumstances of each separate Dominion.

MR. BRUCE enquired whether Lord Balfour included in the general principle the question of access of the Dominion High Commissioners to British Ministers?

LORD BALFOUR thought that to be a matter of method which it was not necessary to study to-day.

MR. AMERY thought that the question of access need not create any difficulty, certainly not any *amour-propre* on the part of the Dominions Office. There was already access on the part of the High Commissioners to the various Government Departments when they wanted to get down to business, but they naturally as a matter of convenience came to his office in the first instance because they regarded it as their advocate and not merely a liaison and also because there was generally a history to these matters which the Dominions Office alone could supply, with the consequence that if they approached another Department first that Department would probably delay till it had consulted the Dominions Office. In foreign affairs the High Commissioners were already in the closest touch with the Foreign Secretary when they were at Geneva. There was really to his mind no important constitutional point involved. . . .

SIR AUSTEN CHAMBERLAIN said that some suggestions had already been made as regards the relations of the self-governing parts of the Empire with foreign Powers. Some were mere matters of form, but some were matters of great importance in the foreign relations of the Empire. Of the first kind was



the matter of the exequaturs of consuls. He saw no difficulty in so adjusting the practice as to arrange that the exequaturs for foreign consuls in the Irish Free State might be countersigned by a Minister of the Irish Free State and similarly with other Dominions. But beyond this was the question of how negotiations with foreign Powers should be carried out and what should be the relationship in these matters between the various parts of the Empire. Sometimes these negotiations concerned all, sometimes one or other more actively and the rest very little or not at all. When any part of the Empire was negotiating with any foreign Power it ought to keep any other part likely to be interested fully informed. If the negotiating Government received no adverse comments or observations it might consider itself entitled to proceed. If, on the other hand, the policy involved in the negotiations was of a more serious kind, *i.e.*, if it would involve direct obligations on some other part of the Empire, the negotiating Government should carry the matter further and have a full consultation with all those concerned.

MR. MACKENZIE KING stressed that that was really the present practice.

MR. BRUCE agreed that that was how they interpreted the present position.

SIR AUSTEN CHAMBERLAIN then read the following statement:

Any Government engaged in negotiations affecting foreign relations falling within its sphere must keep the other Governments likely to be interested fully informed of what it is doing. So long as it receives no adverse comments, and so long as its policy involves no active obligations on the part of the other Governments, it may proceed on the assumption that its policy is generally acceptable. It must, however, before taking any steps which would involve the other Governments in any active obligations, obtain their definite assent.

LORD BALFOUR thought that all were agreed that there are cases in which separate negotiations were desirable. This was less likely perhaps, in the case of Islands like Australia and New Zealand than it was in the case of Canada. There was no suggestion that at the present stage of Imperial development London must not be chiefly responsible for the conduct of foreign affairs. Subject to that qualification, if it was a qualification, he gathered that all were prepared to accept the statement of the Foreign Secretary.

SIR AUSTEN CHAMBERLAIN asked leave to mention a subject which he thought was a matter of some importance. When the protocol<sup>1</sup> which was the joint work of the representatives of the various Governments of the Empire and other members of the League was considered, it was agreed by all that it was inexpedient that the different Governments of the Empire should ratify that protocol. There was some difference of opinion, however, how far they could accept the general principle of compulsory arbitration in all cases. The view of His Majesty's Government had been that situated as the British Empire was it would not be safe to accept the obligation to refer all questions to arbitration. They were prepared in all suitable individual cases to accept

<sup>1</sup> Protocole relatif à l'arbitrage obligatoire par la Cour internationale de justice. Voir le chapitre IV, Partie 2.

<sup>1</sup> Protocol for compulsory arbitration by the Permanent Court of International Justice. See Chapter IV, Part 2.

arbitration, and in the past the British Empire had probably undertaken to arbitrate more cases than any other foreign country, but the present proposal to refer all questions to arbitration was a different matter.

MR. LAPOINTE said that Canada was not prepared to ratify the protocol, but was in favour of considering further the principle of compulsory arbitration.

SIR AUSTEN CHAMBERLAIN said that the answer of the Canadian Government was one of the reasons why he wished to bring this question before the Committee, because a very difficult situation would arise if one Government of the Empire undertook to refer all questions to arbitration and other Governments refused to undertake that liability. He did not ask for a decision on that day, but only for permission to circulate a paper which he had prepared.

LORD BALFOUR imagined that everyone would approve of that.

## 122.

*Extraits du procès-verbal du comité des relations intra-impériales*

*Extracts from Minutes of Committee on Inter-Imperial Relations*

Seventh Meeting

November 4, 1926

MOST SECRET

LORD BALFOUR asked Mr. Lapointe to make a statement as to the Treaty of Locarno on behalf of Canada.

MR. LAPOINTE made the following statement:

We have not been able to conclude that we should adhere, under the optional clause, now that the Treaty of Locarno has been definitely concluded and ratified.

The Treaty involves additional obligations in a European field which, while of interest to us as to all the world, is not our primary concern.

This view is consistent with our previous attitude on Article 10 of the Covenant and the Protocol of Geneva, of which Locarno has been called the post-humous child.

It is apparently also in harmony with the decision of the Government of Great Britain not to accept additional obligations on the eastern boundary of Germany, as more remote and indirectly of concern than the western boundary situation.

The possibility of each part of the Empire deciding its course freely was, of course, contemplated by the inclusion of the optional clause as to Dominion signature and by the decision of the British Government to sign in any case.

It may be urged that difficulties will arise if one part of the Empire should be at war and others not, and that we should, therefore, adhere to the Treaty to avoid this difficulty.

This is a real difficulty, but not a new one, and not raised by the Treaty alone.

If we do not sign, the question remains as it was, to be settled as occasion arises in the light of the conditions and needs of that day, and in full regard of our obligations as a member of the British Commonwealth and of the League of Nations.

I have also noted the view that adherence now by the Dominions would make it less likely that we would be involved in war, by deterring any aggressor from facing what would be overwhelming odds. There is some force in that, but it might perhaps be urged in connection with most military alliances. In any case, we would have to consider whether the additional security for Continental Europe thus provided would not be more than offset by the danger to Canadian unity and progress involved in the assumption of fresh burdens when our neighbours to the south have not assumed even those which we already have in the League.

We regret not to be able in our present light to adhere to the Treaty, but such action is in no way due to lack of appreciation of the motives which decided the British Government to carry it through, and of the spirit which has animated its conduct of international affairs since Locarno.

MR. MACKENZIE KING added that the fact that the United States had not assumed any obligations in European affairs placed the Canadian Government in a somewhat difficult position. . . .

MR. MACKENZIE KING explained that what he had in his mind when he made his previous remark was the difficulty of holding the Canadian people down and attracting immigrants to Canada, when in the United States there was this feeling of getting away from entanglements in Europe. . . .

SIR AUSTEN CHAMBERLAIN said that . . . .

The Dominions representatives had approved generally the policy and action of His Majesty's Government, but had asked whether it was necessary for the success of this policy that the Dominions should adhere. The attitude of the Government in London necessarily differed from that of the Governments of other parts of the Empire. It was axiomatic in Great Britain that if the safety of a Dominion were at stake the whole resources of Great Britain would be placed at its disposal. The greater the guarantee that the Dominions would act with Great Britain the greater was the peril to any Power which brought down upon itself the sanctions. If France or Germany were the aggressor, not only would they find their neighbour against them, but they would also have the whole strength of Great Britain against them, and if there were the same guarantee as to other Dominions it would be a still more formidable restraint against any aggressive tendencies in any particular country. If they asked whether any serious consequences would follow from the Dominions not adhering, he would say no. He thought that people at large would think it was almost certain that in a great crisis the Empire would act together. Unanimous adherence, however, would produce a great effect, if it was felt that the whole weight of the British Empire was to be used to prevent aggression.

With regard to the demilitarised zone, under the Treaty of Versailles, any act against the demilitarisation provisions gave the parties a right of going to war. Under the Locarno Treaty it had been provided that such cases should go to arbitration, and only one case was taken out of that, the case of an assembly of armed forces in the demilitarised zone. Such an assembly could

only have one purpose, and the object of providing a demilitarised zone would be lost. Consequently, there was little difference between the obligations under the Treaty of Locarno and those under the Covenant, though there was greater precision in the former as to those obligations. He would have been glad if the whole Empire, feeling that the obligation was so little more than that previously undertaken, and of a nature so little likely to mature, could have unanimously agreed to adhere. If all parts of the Empire were not prepared to take this action he was disposed to agree with those who thought that unanimity was important and that it was better that none should adhere. . . .

MR. MACKENZIE KING alluded to Mr. Meighen's declaration that he was not in favour of Canada participating actively in war until there had been a general election as one of the circumstances likely to lead to difficulty in inducing the Canadian Parliament to approve adhesion.

LORD BALFOUR said he gathered that Canada would in no circumstances be able to adhere.

MR. MACKENZIE KING said he was afraid that it would be impossible to induce Parliament to approve adhesion.

MR. COATES suggested that a general resolution on the subject should be put before the Committee.

LORD BALFOUR said that there appeared to be three possible courses:

1. Unanimous adhesion.
2. General approval by the Dominions of the course adopted by His Majesty's Government, without adhesion.
3. No action whatever.

He personally thought that there was much to be said for the second course. The future management of foreign policy would be easier if there were approval of policy after consultation, rather than Parliamentary debates in seven Parliaments. He asked Sir Austen Chamberlain what would be the effect on foreign countries of the adoption of the second course which he had mentioned.

SIR AUSTEN CHAMBERLAIN thought that what would be most impressive would be ratification by each independent Government of the Empire. This being impossible, a declaration of approval by the Imperial Conference of the action of His Majesty's Government would have the greatest effect.

After some discussion as to the possible wording of a resolution, MR. MACKENZIE KING said that he was much impressed by Lord Grey's recent statement that it was a mistake for the Dominions to go in for anything half-heartedly. Canada was satisfied with the Treaty and with all its terms; there was no question at all of that; and if the situation arose Canada would do her part. But was it wise to open up in the Canadian Parliament a debate as to whether Canada had approved or not?



After further debate, it was agreed that, in the light of the discussion at the meeting, a draft resolution should be prepared and should be submitted to the Committee.

ADHERENCE OF THE UNITED STATES TO THE PROTOCOL ESTABLISHING THE  
PERMANENT COURT OF INTERNATIONAL JUSTICE.

There was some discussion on the question of the adherence of the United States to the Protocol establishing the Permanent Court of International Justice (Paper E. 116). It was understood that it was the intention of the Dominion Governments to reply to the United States Government on the lines of the draft letter circulated by the Secretary-General of the League of Nations (Annex C to E. 116), and that it was, therefore, unnecessary that the matter should be further considered by the Committee.

123.

*Extraits du procès-verbal du comité des relations intra-impériales*  
*Extracts from Minutes of Committee on Inter-Imperial Relations*

Eighth Meeting

November 8, 1926

MOST SECRET

1. TREATY OF LOCARNO

LORD BALFOUR said that a draft resolution had been circulated embodying the general views of the Committee; but he understood that Mr. Mackenzie King had a form which he preferred.

MR. MACKENZIE KING then put forward the following draft resolution:

The Conference has heard with satisfaction the statement of the Secretary of State for Foreign Affairs with regard to the efforts made to ensure peace in Europe, culminating in the agreements of Locarno; and congratulates His Majesty's Government in Great Britain on its share in this successful contribution towards the promotion of the peace of the world.

The Committee agreed to recommend the new draft to the Conference for adoption.

2. SYSTEM OF COMMUNICATION AND CONSULTATION

*Position of High Commissioners in London*

. . .

SIR AUSTEN CHAMBERLAIN said the problem was whether it was possible to do anything on the side of Great Britain to meet the wishes expressed by some of the Dominions and, in particular, to make the causes and process of foreign policy to be more clearly known to the Dominions. To begin with conduct of affairs in the Foreign Office—the mass of matter which came in was far greater than any one individual could read and digest. A great deal of



routine work was done in the Office which did not come to him at all. Then to pass to larger questions—he circulated to the Cabinet the documents which he thought of importance, in order to aid them in forming their judgment on foreign affairs and to enable them at any moment to control his actions. There was less discussion on foreign affairs nowadays in the Cabinet than when he joined his first Cabinet twenty years ago, and this was owing to the increase of general business. But the members of the Cabinet had the right at any moment to challenge anything he might do. The same documents which went to the British Cabinet went to the Dominions, and they could similarly form their judgments. But such documents would reach the Dominions late, and the Dominion Prime Ministers had not the same opportunity of asking questions as Cabinet Ministers in Great Britain. If he could help to approximate the position of Dominion Prime Ministers to that of Cabinet Ministers in Great Britain, he would be only too glad to do so. He did not wish to suggest that the Dominions Office should be done away with. Even if the Dominions did not require it, it would be required by the Government in London. He agreed with those who desired that the present methods of sending telegrams and despatches should continue, but in between Imperial Conferences the Dominions did not receive the political atmosphere, and he thought that if the Dominions had a body of representatives here, who could keep in touch with the Foreign Secretary, they would preserve the atmosphere, and they would help to give life to dead print. These men, however, must be well-informed and in the confidence of their Governments. . . .

MR. MACKENZIE KING said he would much prefer to get information from a British official in Canada. He would rather that Sir Austen Chamberlain should communicate with his officer in Canada, than that Sir Austen should communicate with a Canadian officer here, whether as regards the communication of information by the British Government to the Dominion Governments, or as regards the method by which the Foreign Secretary in London could ascertain the views of the Dominion Governments on any particular matter of foreign affairs.

SIR AUSTEN CHAMBERLAIN pointed out that, whatever happened, it was proposed that all information which now went should continue to be sent.

MR. AMERY thought that, in order to create the right atmosphere, the more channels of information there were, the better.

LORD BALFOUR said they were all agreed that existing transmission of information should continue as at present. The question was how it was to be supplemented. He gathered that the plan was that there should be a British representative in each Dominion, and a representative of each Dominion in London. If, by any chance, a representative were more efficient, either here or there, it would be that channel which would in effect be employed. . . .

LORD BALFOUR then read the following formula drafted by Sir Maurice Hankey as summing up the discussions which had taken place:

The Governments represented at the Imperial Conference are agreed that it is desirable to improve as far as possible the facilities for intercommunication and the reciprocal supply of information in foreign affairs, particularly by developing a system of personal contact. In this connection the representatives of the Dominions welcome the offer of His Majesty's Government in Great Britain to give full information in regard to foreign affairs, and to discuss foreign affairs, with any person representing a Dominion (whether a Minister, High Commissioner, Liaison Officer, or other official) who may be nominated by his Government for either or both purposes;

Any arrangements adopted in pursuance of this plan will be supplementary to, and not in replacement of, the system of direct communication from Government to Government, and the special arrangements which have been in force since 1918 for communications between Prime Ministers;

The methods of supply of information, and of discussion as between the Secretary of State for Foreign Affairs and any representatives nominated by the several Dominions, will be arranged with due regard to the great and continuous pressure of work in the Foreign Office;

. . .

### 3. REPRESENTATION OF THE BRITISH EMPIRE AT INTERNATIONAL CONFERENCES

MR. AMERY said that this subject had been included in the agenda for the conference suggested by the British Government. The question had arisen in connection with the London Conference of 1924 on the Dawes Report, and after that Conference Mr. Ramsay MacDonald, who was then Prime Minister, had suggested that the subject might be discussed at the enquiry into constitutional matters suggested by his Government, which was not, in fact, held. The question was how to reconcile the general theoretical decision that the Dominions are entitled to representation at international conferences with practical difficulties which might arise in particular cases—for example, if the number of British Empire representatives were largely to outnumber the representatives from foreign countries. . . .

MR. MACKENZIE KING said that if the Dominions had no immediate interest they ought not to be represented and similarly with regard to obligations. At Locarno, for instance, he could imagine people saying: "You may wish to have these Dominions obligated, but if you do you must let them be represented." He thought that the principle "no taxation without representation" should apply here. The Canadian Parliament would demand representation in every case involving direct obligation for Canada.

MR. FITZGERALD said that at the London Conference on the Dawes plan representation was by the panel system, but all the Dominion representatives had full powers issued on the advice of their Governments.

SIR AUSTEN CHAMBERLAIN said that at that conference one Dominion representative sat, together with the Prime Minister of Great Britain, the Dominions taking turns, but this was not a satisfactory arrangement. He then turned to the subject of invitations from foreign Governments, and pointed out that in this case the action was taken by the foreign Government. An ideal solution would be that in a political conference the foreign Government should address one invitation to this Government and then this Government should approach the Dominion Governments as to representation. If this was not considered satisfactory by the Dominions the British Government would do their best to obtain from foreign Governments separate invitations for each Government. They would be given through the diplomatic channel, and the Foreign Office would inform the inviting Government that each Dominion wished to make a separate acceptance through the diplomatic channel in accordance with the normal practice . . . .

MR. BRUCE stated that a beginning was being made in the explanation of the Dominions' status to foreign countries and that it was better to deal with the questions of invitation and representation as they arise.

LORD BALFOUR considered it an impossible position to tell nations that they should invite all the members of the British Empire or none. . . .

MR. AMERY agreed with a statement made by Mr. Mackenzie King that the important thing was not the form of the invitations, which could not be controlled, but the form of the acceptance or acceptances. It would be possible to educate foreign Governments as to the form of invitation which they should issue if acceptance of an invitation addressed to the British Empire were couched in the form of separate acceptances on behalf of each Government.

## 124.

### *Extraits du procès-verbal du sous-comité sur la procédure en matière de Traité*

#### *Extracts from Minutes of Sub-Committee on Treaty Procedures*

Sixth Meeting

November 8, 1926

SECRET

...

MR. HARDING: I intervene in this discussion with great diffidence, but it occurs to me it might meet the views expressed both by Mr. Fitzgerald and Mr. Havenga if an interpretative resolution was sent to the League to the effect that the man who appears at International Conferences under the title of "British Empire" is appointed by His Majesty's Government in Great Britain and represents Great Britain and Northern Ireland and all parts of the British Empire which are not separate members of the League.

SIR CECIL HURST: How are you going to find any value in the phrase "British Empire" as an umbrella in cases where you want to use that phrase as an umbrella?

MR. HARDING: I should have thought that, if you had an interpretative resolution, that would have supplied the special interpretation. That is really what it means as far as the League of Nations is concerned, because the Dominions are represented there separately. After you have given a resolution of that kind, it leaves the question of what "British Empire" means, apart from the special circumstances in which you use this description, quite open.

SIR CECIL HURST: I should be afraid of the deduction foreigners would draw. I should fear they would regard the term "British Empire" as meaning no more than Great Britain. That is an interpretation I am anxious to avoid.

MR. LAPOINTE: It is naturally the case. Canada is not represented in the League of Nations by the delegates of Great Britain, but by her own delegates. We want to make that clear. You say the "British Empire" means more.

SIR CECIL HURST: You are in the happy position that you are represented twice over.

MR. LAPOINTE: I am not so sure that we are pleased about it.

SIR CECIL HURST: We are in the position that we have only a part of the representative, whereas you have one and a half.

MR. FITZGERALD: We are quite ready to forgo the dual representation. . . .

SIR CECIL HURST: Is there not really perhaps a formula less likely to give rise to trouble in the future, but nevertheless equally acceptable here, that we should in such a matter as a final act of conference, which is merely a record of facts and not a convention, adopt the same form as we proposed to adopt for treaties; that we should drop the term "British Empire" altogether and substitute "Great Britain," but enumerate the self-governing parts of the Empire in a row, put them altogether and substitute "Great Britain" for "the British Empire."

MR. FITZGERALD: I did not mean to substitute the words "Great Britain" for "the British Empire."

SIR FRANCIS BELL: That will not cover everything.

SIR CECIL HURST: It is a record of historical fact.

SIR FRANCIS BELL: The expression "Great Britain" would not do; the expression "Great Britain and Northern Ireland and His Majesty's Dependencies beyond the seas, other than the Dominions and India."

MR. FITZGERALD: That is a matter of convenience.



SIR CECIL HURST: Is not that the best way of harmonising the divergent views?

MR. LAPOINTE: Yes, if we are going to drop the words "British Empire," I entirely agree with the change suggested here, that we ought all to be put together instead of appearing alphabetically. If the words "British Empire" are to be retained, I think the fact that we are appearing here is recognition of the equality of status.

MR. FITZGERALD: Grouped together without an "umbrella".

SIR CECIL HURST: In this case there will be no "umbrella".

DR. SKELTON: You are all standing where the "umbrella" was. . . .

SIR CECIL HURST: Let us look at it from the practical point of view. We agreed that we are to secure in future that all League treaties are made in the name of the King. For that purpose we have got to go to Geneva and to say: "We want you to introduce a change in your practice. We want to secure that change in the practice in Geneva, because the existing basis is unsatisfactory to all of us from the point of view of our inter-Imperial relations, unsatisfactory to us for one reason, and to you for other reasons." At the same time Geneva will say to us, unless we explain to them why we ask for that change: "Why do you want that change made?" We must give them something. We cannot expect them to accept it because we express the wish. We must give them reasons, and it is in the course of giving those reasons that we can indicate the basis upon which we want them to realize that we will do all this international work. That seems to me the case for making some statement.

MR. LAPOINTE: That statement would be satisfactory to all of us.

SIR CECIL HURST: Really, the whole basis of our work here is that the relations between us are not international; therefore, reservation would introduce a new element into the difficulty.

DR. SKELTON: Will not the question whether a declaration is to be made to the League depend upon the procedure which we think should be followed? Perhaps when that is settled, we shall know better whether that can be done by our own action. A good deal depends upon the extent and the formality of the changes. That suggests a point that has been at the back of my mind during the afternoon. I have only been at Geneva once and have very little experience of international affairs elsewhere, but my experiences there did show me that there was nothing like being brought up against foreign nations to realize how much we are at one in the standard of looking at things. The moment you get to Geneva you know at once it is just a question of how far we can rely upon that genuine harmony of viewpoint which exists in our general attitude towards international affairs. I can understand that Sir Cecil is up against these questions every week and every month and realises the difficulties more than even we do.



SIR CECIL HURST: I think we do in this Office, where we have to bear the major share of the brunt of the relations with the foreign Powers, in the course of which it is the unity side of the whole business which requires to be stressed.

MR. LAPOINTE: Do you think we should come to a definite conclusion as to League treaties before embarking on the Second Part?

SIR CECIL HURST: No, I think you ought to read through the whole document before you attempt to arrive at a definite agreement, because you see the effect of the provisional agreement to which the Committee has come to endeavour to secure that all these treaties should be made in the name of the King, renders the whole of the procedure more applicable than that which is recommended with regard to non-League treaties. I think that before the Committee attempts to arrive at a conclusion on the First Part, they should go through the whole.

GENERAL HERTZOG: Would it be advisable to get the draughtsman to draft a League treaty more or less on the basis that we have been discussing, and let us then have a look at that? It seems to me that if you had a thing like that before you, you could go over the whole and see really what it is.

SIR CECIL HURST: I should like to put forward the draft of a Resolution, because I think that is now becoming very important. I am afraid that it will be rather more difficult to frame than to prepare a draft treaty.

MR. LAPOINTE: Could you do that for to-morrow?

SIR CECIL HURST: I will try.

MR. LAPOINTE: Perhaps the General might like to prepare some draft treaty?

GENERAL HERTZOG: I think I am prepared to attempt to do so.

MR. FITZGERALD: We are, of course, handicapped in doing any such thing.

SIR CECIL HURST: If we had several drafts coming from various quarters, it would facilitate the appointment of a little Drafting Committee in order to prepare one for submission to this Committee. . . .

## 125.

*Extraits du procès-verbal du comité des relations intra-impériales*

*Extracts from Minutes of Committee on Inter-Imperial Relations*

Ninth Meeting

November 9, 1926

MOST SECRET

### COMPULSORY ARBITRATION

SIR DOUGLAS HOGG thought that all the members of the Committee would have read the memorandum setting out the position which the Government in

London considered a wise position to take up, namely, that of waiting some time before accepting the compulsory clause of the Statute of the Permanent Court. The position was that, when the Statute was first drawn up, there was some question as to whether arbitration should be made compulsory by the terms of the Statute itself. The legal advisers of three separate Governments in London had advised against this. Under article 13 of the Covenant it was provided that members of the League agreed that, whenever any dispute should arise between them which they recognized to be suitable for submission to arbitration and which could not be settled satisfactorily by diplomacy, they would submit the whole subject matter to arbitration. Disputes as to the interpretation of any treaty; as to any question of international law; as to the existence of any fact which, if established, would constitute a breach of any international obligation; or as to the extent and nature of the reparation to be made for any such breach, were declared to be among those which are generally suitable for submission to arbitration. All members of the League of Nations were therefore bound to this extent. The question was, therefore, not whether matters should be generally submitted to arbitration, but whether the members of the League should beforehand bind themselves to send all disputes of this character to arbitration. He could imagine questions which it would be difficult for Governments of the Empire to submit to arbitration, for instance, the question as to whether this country should keep its army in Egypt, or the question of Japanese immigration into Canada. He could conceive questions in which, if compulsory arbitration were consented to, Governments of the Empire would be forced to go to such arbitration knowing that their Parliaments would not accept any adverse decision. Another difficult question was that of the law of prize, in which there were differences between the British, United States and Continental practices. If such a question was submitted it would be with the knowledge that the tribunal, with a majority of foreign lawyers, would find against the British practice; and yet it was a matter vital to the Empire. It might be that with the effluxion of time, as the Court justified itself, it would be desirable to agree to compulsory arbitration; but he thought it would be prudent to wait at present. This was a matter on which all the members of the Empire should act unanimously.

SIR AUSTEN CHAMBERLAIN pointed out that there was a case in which Great Britain had proposed arbitration concerning the right of the United States of America to take a certain proportion of the reparations payments, but the United States Government refused. The United States had always refused to arbitrate where questions of vital interest, independence or honour might be concerned.

MR. LAPOINTE then made the following statement:

I have read with interest the memorandum circulated by the British Government on the subject of compulsory arbitration. In view of the fact that the Canadian Government last year expressed readiness to consider acceptance of

the compulsory jurisdiction of the Permanent Court in justiciable disputes, though with certain reservations, I may perhaps make a brief statement on the question now.

Public opinion in Canada is strongly in sympathy with the extension of the methods of joint enquiry or arbitration in the settlement of international disputes assuming, it should be added, that the enforcement of the findings is to be left to the pressure of national and international opinion, and is not to be undertaken by force in the hands of third parties. We have not always fared well in international arbitrations in which our interests have been at stake, but the gain to world peace involved in the acceptance and application of the principle of arbitral settlement of disputes may more than offset specific disadvantages.

I have not been wholly convinced by the considerations advanced against acceptance of compulsory jurisdiction of the Permanent Court under Article 36 of its statute. Jurisdiction would be limited to disputes relating to the interpretation of a treaty, any question of international law, the existence of any fact, which, if established, would constitute a breach of international obligation, and the nature or extent of the reparation to be made for the breach of an international obligation. These are exactly the four types of cases which by Article 13 of the Covenant we have all recognised as 'generally suitable for submission to arbitration.' It is true they are stated to be *generally* suitable; an agreement in advance to accept every dispute falling within one of these categories is undoubtedly a much more precise and binding obligation.

It has been urged that, while we would loyally carry out our engagements, we have no security that foreign Powers would do so, and, further, that there is no likelihood of either the United States or Soviet Russia accepting compulsory arbitration. We may surely believe that some at least of foreign Powers would honour their word, and that the united force of our example will in time set higher standards of international conduct. In any case, Article 36 provides that acceptance may be made on condition of reciprocity, or for a limited time.

There may, it is true, be difficulty in a democratic country in securing the assent of Parliament to the enforcement of awards. That difficulty, however, faces us alike, whether we have made a general agreement of arbitration or a special agreement to submit one specific question. It is not until the terms of the award are known that the attitude of Parliament can be revealed.

We agree that there are some vital issues which our public opinion would not wish to see exposed to the hazard of arbitration—for example, the validity of restrictions on immigration into a Dominion. It is not apparent, however, that such an issue would fall within one of these four categories; and, in any case, it has, I believe, been considered by high British legal authority that such issues could be safeguarded by explicit reservations.

There seem to us good grounds for believing that the general acceptance of the optional clause by the members of the British Commonwealth represented in the League would make for confidence and peace. At the same time, we recognise the force of the consideration that in a matter of such moment it may be desirable to await the test of time and to observe the methods and the measure of success of the Permanent Court before making further commitments. We are therefore prepared to postpone further consideration of the proposal for the present.

IT WAS AGREED that no resolution should be proposed to the Conference on this question, it being understood that no Government would take any action in the direction of the acceptance of the compulsory jurisdiction of the Court without bringing the matter up again for discussion.

A discussion then arose on a draft formula which had been circulated to the Committee. As on former occasions no minutes were taken of the proceedings; but the following formula was provisionally arrived at as a basis for future discussion:

Great Britain and the self-governing Dominions are autonomous communities of equal status, united by the common bond of the Crown. They stand in no subordination one to another in matters national or international, but are freely associated as members of the British Commonwealth of Nations within the British Empire.

## 126.

*Extraits du procès-verbal du sous-comité sur la procédure  
en matière de Traité*

*Extracts from Minutes of Sub-Committee on Treaty Procedure*

Seventh Meeting

November 9, 1926

SECRET

Mr. Lapointe: (Part II read: Non-League Treaties, paragraphs 20, 21, 22, 23 and 24.)

SIR CECIL HURST: The most important point, I think, in that section really is the distinction it draws between the treaties there described as imposing "active obligations" and those not imposing active obligations. Really the case of a treaty not imposing active obligations is that where the results of the treaty have got to be recognised without the particular Government concerned having to take actually any steps itself to carry it out. For instance, there was a case that may well be an illustration of what I mean. The South African Government recently came to an agreement with the Portuguese Government for the settlement of some boundary question, and I think under that treaty also certain active obligations were undertaken by the South African Government in the sense that certain particular things had to be done. That is a very good instance of the distinction that is drawn in this Section. Clearly there was one of the King's Governments entering into a treaty with a foreign Power. The only part of the Empire where there were active obligations imposed upon the Government was the Union of South Africa, but nevertheless that state of things was created in the sense that the boundary was fixed which it is incumbent upon all parts of the Empire to recognise. They have not got to do anything, but the citizens of any other part of the Empire could hardly come forward and say: "It is true this treaty was signed in the name of the King—it was made by the King's Government, although not signed in the name of the King—and I, as another subject of the King, therefore am now going to contest it." That I do not think is possible. I have taken that instance, but, of course, there are a good many others of



which we occasionally have cognizance here—the Tangier Convention which is mentioned in paragraph 23 is another. You will see at the top of page 7, in paragraph 24, three possible instances are given:

(a) In which active obligations will only fall upon a part of the Empire other than Great Britain.

That is exactly the recent case of the settlement of the Portuguese boundary.

(b) In which active obligations will fall on two or more parts of the Empire, one of which may or may not be Great Britain.

Take, for instance, what is quite possible, a new treaty in the course of the next few years relating to seal fishing in Canadian waters. We should be interested in that, and there would be active obligations imposed under the treaty both on Canada and us, and there would be yet other parts of the Empire on which no active obligations were imposed, but the obligations would arise to recognise the consequences of the treaty. For instance, suppose that under that treaty there was a provision agreed to with some foreign Power concerned, let us say Japan or Russia, that within a certain area there should be no fishing by British vessels. You will remember that is the existing arrangement with regard to the seal fishing in the neighbourhood of the Commander Islands, within a radius of 50 miles there is to be no fishing. That does impose, according to the view set up in these paragraphs 23 and 24, an obligation upon the Governments of the Empire—even though not directly interested—to recognise and take note of the effects of the treaty. I mention that case because it is one where quite certainly there would be active obligations falling on two or more parts of the Empire.

(c) In which other parts of the Empire are for special reasons interested, even though they may have no active obligations.

Take, for instance, a treaty such as the one that was being negotiated, although negotiations have now broken down, with regard to the tariff imposed on goods entering China. All the parts of the Empire who trade with China are clearly interested in that. I doubt whether they would find, however, that the contents of the treaty would impose active obligations upon them.

GENERAL HERTZOG: (b) and (c) really ought to go together—the case in which active obligations will fall on two or more parts of the Empire, one of which may or may not be Great Britain, and the case in which other parts of the Empire are for special reasons interested.

SIR CECIL HURST: Take the case of the Chinese tariff. I have no doubt there is a growing trade at this moment between Canada and China. Supposing an arrangement was come to under which Chinese tariffs were raised by agreement, I do not think that agreement need necessarily entail active obligations upon the Canadian Government, though certainly they would be interested.



MR. LAPOINTE: You do not suggest that any rules should be laid down to cover all the cases, but that the form of the preamble should be arranged to meet cases as they arise.

SIR CECIL HURST: That is true, but still those are the type of cases that I think you ought to have in mind when considering the proposals made in this section.

DR. SKELTON: Under 24 (a) would unlimited full powers be granted as is mentioned has been done under 23?

SIR CECIL HURST: The practice hitherto has been, as is stated in paragraph 23, to issue unlimited full powers. I am not really sure, Dr. Skelton, that I ought to answer categorically with regard to 24 (a), because, so far as we know, I am not sure that there has been such a case. I am not sure whether full powers were issued by the King in respect of the recent arrangement between South Africa and the Portuguese Government. I rather think it was signed in the form of a governmental agreement, in which case there would have been no full powers, but if it has been made in the name of the King, then the case would have arisen. Now, according to what I think is sound principle, the South African plenipotentiary who negotiated that treaty ought to have had unlimited full powers. That seems to me to be really the constitutionally and politically sound line.

DR. SKELTON: All the other Governments have previously acceded to that issue.

SIR CECIL HURST: They would all have been cognisant according to the treaty resolutions of 1923. Assuming that these were carried out, as I have no doubt they were, all the Governments of the Empire would have been aware that these negotiations were going on. They would all, therefore, have been entitled to say: "We think the fixing of this boundary is of such importance that we should like to participate." In the particular case I gave you, they obviously would not, because it is a matter solely affecting South Africa. Then they would say: "We are perfectly content that South Africa should make such an arrangement." If they had been aware of the fact that South Africa was negotiating and was proposing to conclude this agreement, and they had intimated no desire whatever to participate, then is not their accordance implied?

DR. SKELTON: Perhaps. I can imagine perhaps a little difficulty occurring if the matter were one in which the interest were a little more direct, and yet they were not primarily one part of the Empire concerned.

SIR CECIL HURST: Of course, if there was anything in the nature of active obligations imposed I cannot help thinking—

DR. SKELTON: Take passive obligations. Take the question of the Pacific seal matter. Assuming Canada and Great Britain are the two countries chiefly

concerned, would they have the right to say no British subject will be allowed to catch seals in the Behring Sea without having got the direct consent of the other Governments of the Empire? The way we got round it in the Halibut Treaty was we did not attempt to say what any citizen of the Empire should do while out in the ocean, but we did say that no one who poached would be allowed to make use of the Canadian ports.

SIR CECIL HURST: That was the form of the legislation.

DR. SKELTON: That was the way we got round the fact that we had no right to bind Australians or South Africans.

SIR CECIL HURST: If Australia had been aware of the fact that you were contemplating the making of this treaty for the regulation of the fur seal fishery and was aware that the proposal was the preservation of the fur seals by prohibiting fishing within a certain area and they stand by and are silent, is not that a tacit acquiescence in the making of a treaty which may affect the fishing rights of Australians?

DR. SKELTON: Yes, I suppose it is.

MR. LATHAM: I should think it would be after the 1923 Resolution, if a communication were made to Australia in the light of the 1923 Resolution.

GENERAL HERTZOG: Simply to bring this out clearly, how can it affect Australia more than it would affect Holland? Supposing that notice was given of these negotiations going on between Canada and England.

SIR CECIL HURST: It affects them more only to this extent, that there is that special relationship which we have mentioned from time to time which subsists between the different parts of the Empire. Therefore it really seems to me it would be an impossible situation if, such a treaty having been made in the name of the King on behalf of one of his Dominions, another of his Dominions, or the inhabitants or the citizens of another of his Dominions, came forward and said: "We ignore this treaty." It means that the King is doing with his right hand what he has practically promised not to do with his left. . . .

DR. SKELTON: Do all treaties fall into the same class? There are those we recognise which are carried on by two parties of the Empire; in the case of those we recognise, those of us in the other Dominions not immediately concerned in the negotiations, that we are probably going to be concerned, and therefore would wish to appoint plenipotentiaries to take a part in framing the deed and be bound whatever conclusion is come to. On the other hand, there are those which do not affect us at all, and which we therefore think should be so drawn up as to apply only to those parts of the Empire that are affected, or is there an intermediate class in which we recognise that there are indirect and minor results which may affect our nationals? We do not want to be excluded from them. We do not want to take a part in the

negotiations, but wherever possible accept the consequences, or perhaps a little more than that. We say definitely that we have no objection to having those affect us. I do not think the third is a logical one; but it may be that there are certain cases in which it might be carried out, in which we may have either to take a part in the treaty which is going to affect and bind us or be excluded definitely from the operation of the treaty. That is the logical way of looking at it. There is the third alternative of recognising the binding effect in minor ways of treaties in which we have no direct part, and this might have to be followed.

SIR CECIL HURST: I was going to express a doubt whether Dr. Skelton's classification is quite a logical classification. Does this treaty impose an active obligation upon the Dominion? In that case it is clear that it ought to be signed on behalf of the Dominion so as to introduce an element which will justify that Dominion Government in taking and practically require it to take whatever steps are necessary to bring it into force, whether that be through its Parliament or by joining in the ratification. The other class is where it imposes no obligations except the obligation of recognising the effect. Now that category can fall into two classes: one is sufficiently important for the Dominion to say: "We wish to participate in the negotiations; we wish to join in the appointment of a plenipotentiary or to be represented by a separate plenipotentiary"; the other class of case is where the Dominion says: "My interest in this is so small that I am aware of the general lines that are going to be pursued in this particular negotiation and I accept the result."

DR. SKELTON: Even though it admits that we are being bound by the action of the plenipotentiaries, in whose appointment we have had no share?

SIR CECIL HURST: He is perfectly entitled to say: "The inhabitants of my country will be affected by this negotiation. I should like to join in the appointment of plenipotentiaries." You would then telegraph to London who was going to be nominated as plenipotentiary. In Canada you would do that, for instance.

MR. LATHAM: May I mention also in connection with what Dr. Skelton has said that there is a well-known distinction between a general power and a special power. A Dominion may be perfectly prepared to give a general power in relation to certain matters, which it would define for itself from time to time, by making no comment; and if the Dominions were to intimate to the British Government: "In a case where we do not forward any comments within a reasonable time you can understand that we are content that your plenipotentiary should act generally, with the effect that we would be bound to recognise the results of this treaty," that would correspond to what one might call a limited form of general power, and would be a protection from the constitutional point of view and assist in foreign policy on behalf of the whole of the Empire. . . .

127.

*Extrait du procès-verbal du comité des relations intra-impériales**Extract from Minutes of Committee on Inter-Imperial Relations*

Eleventh Meeting

November 11, 1926

SECRET

The Committee considered the memorandum circulated by the Irish Free State delegation on existing anomalies in the British Commonwealth of Nations (E.I.R. (26) 3).

As regards matters referred to in paragraphs 2 and 3 (a), MR. AMERY stated that the position as regards despatches notifying that His Majesty would not be advised to exercise the power of disallowance in respect of Dominion legislation was as stated in the memorandum. This was in accordance with an old custom, and, as a matter of sentiment, he would prefer the form to remain, but if it caused misapprehension as to the constitutional position, he would not press for its retention.

MR. O'HIGGINS said that in the Irish Free State the position whereby forms survived after the substance had ceased to exist was not understood, and that the retention of such forms was an implication of subordination.

MR. AMERY referred to the statutory condition laid down by the Treasury, under the Colonial Stock Act of 1900, for the inclusion of Dominion and Colonial loans in trustee securities, that there should be a formal expression of opinion that legislation, which appeared to the British Government to alter provisions affecting the stock to the injury of the stockholder, would properly be disallowed. This was a corollary to a special favour given to Dominion and Colonial securities. If the practice of disallowance were discontinued, it would be necessary to consider what condition could be substituted for this as regards future loans, in order not to deprive the securities in question of the privileges which they enjoyed. In the case of existing loans, the condition was definitely attached, and could not be modified.

A general discussion ensued, in the course of which MR. LATHAM drew attention to the special position in Australia, where the Commonwealth Constitution provided definitely for disallowance and reservation in certain cases. He pointed out that the Constitution had been arrived at by agreement with the Governments of the States, and that the Constitution could only be altered by legislation of the Commonwealth Parliament approved by a referendum, as a result of which the majority of the States and the majority of the people agreed. Consequently, it would not be possible for the Commonwealth Government, which was only one of the Governments concerned, to agree by resolution to an amendment of the Constitution.

It was finally agreed that the questions raised required consideration by legal experts, and that the most satisfactory course would be that they should be referred to a special committee, to be held as soon as possible after the



termination of the Imperial Conference. The Committee decided to appoint a drafting sub-committee, consisting of Mr. Amery, Mr. Lapointe, Mr. Latham, Sir Francis Bell and Mr. Costello, to prepare for the consideration of the Committee draft terms of reference to such a committee, taking into account not only the questions referred to in paragraphs 2 and 3 (a) of the Irish Free State memorandum, but also those mentioned in paragraphs 5 and 6.

SIR AUSTEN CHAMBERLAIN then dealt with paragraph 2 (b) of the memorandum of the Irish Free State delegation concerning the issue of exequaturs to consuls. He stated that the British Government accepted the proposal that any application by a foreign Government for the issue of an exequatur to a person who was to act as consul in a Dominion should be referred to the Dominion Government for consideration, and that, if the Dominion Government agreed to the issue of the exequatur, the exequatur would be sent to them for counter-signature by a Dominion Minister. He had already given instructions that this procedure should be followed in a case which had arisen affecting Canada, and it would be followed in future in all cases.

MR. FITZGERALD asked whether the same principle would apply in the case of a Dominion wishing to appoint a consul.

SIR AUSTEN CHAMBERLAIN replied that, in the event of such appointments being made, the application of the Dominion would most conveniently go through the diplomatic channel. This was a matter of convenience and the ordinary practice amongst nations. If the Dominion had its own Minister in the foreign country concerned, he would naturally be employed as the channel. The only other paragraph of the memorandum dealing with a matter not already under discussion or dealt with was paragraph 9, which related to the channel of communication between foreign Governments and the Dominions. As to this, his view was that, so far as technical matters were concerned, no questions need arise; but of matters of general and political interest it was very desirable that the universal practice should be observed of using the diplomatic channel.

MR. FITZGERALD asked whether it would be agreeable that, where the Free State had not a separate diplomatic representative in a foreign country, the Free State Government should communicate direct with His Majesty's Representative, at the same time informing the British Government.

SIR AUSTEN CHAMBERLAIN said that he would prefer that instructions from a Dominion Government to one of His Majesty's Representatives should pass through him, as it might be inconvenient if two separate authorities were issuing independent instructions. He would pass on to His Majesty's Representative the instructions of the Dominion Government and ask His Majesty's Representative to act on them. In 1920, when the arrangements for the appointment of a Canadian Minister at Washington were under discussion, it had been proposed that the Canadian Minister at Washington should act for His Majesty's Ambassador in his absence. Mr. Mackenzie King had since pointed out that this would not be desirable, as it would involve the Canadian Minister having to act on instructions from the British Government, to whom



he would not be responsible. Sir Austen Chamberlain added that it was not necessary that such matters as messages of courtesy or condolence should be communicated through the diplomatic channel.

MR. FITZGERALD said that he was prepared to accept this position, but reserved the right to protest if there were undue delay.

As regards the question of appeals to the Judicial Committee of the Privy Council, referred to in paragraph 8 of the memorandum, MR. O'HIGGINS stated that in this matter he desired to inform the Committee that, as a result of conversations which he had with Lord Birkenhead and the Attorney-General, his delegation had decided not to press this matter to a conclusion at the present Conference. He wished it to be understood that, in adopting this course, the representatives of the Free State were not withdrawing in any degree from the contentions embodied in their memorandum. In leaving the matter over for the present he did so without prejudice to the position which they had taken upon these appeals and simply in response to representations that it was inopportune and inexpedient to seek a definite decision at the present time.

#### SYSTEM OF COMMUNICATION AND CONSULTATION.

The Committee then considered the draft resolution circulated as Paper E (I.R./26) 6, and it was agreed that the draft resolution should be reserved for further discussion when the question of the representation of the British Government in the Dominions had been further considered.

128.

#### *Extraits du procès-verbal du sous-comité sur la procédure en matière de Traité*

#### *Extracts from Minutes of Sub-Committee on Treaty Procedure*

Eighth Meeting

November 12, 1926

SECRET

MR. LAPOINTE: Sir Cecil Hurst has prepared a specimen form of treaty and a projected resolution of this Sub-Committee, and since he has done that there has been another draft report suggested by the Canadian Delegation as a basis of discussion, so that these two matters are for consideration this afternoon. I suppose everybody has read the papers prepared by Sir Cecil Hurst. Would you like me to read the draft resolution prepared for consideration by him, which reads as follows:

1. Though the Dominions separately represented in the League of Nations and India are entitled in virtue of such separate membership to all the rights and privileges of Members of the League, they became members upon the footing that the relationship between the various parts of the British Empire is different from the relationship between them and foreign Powers.

SIR CECIL HURST: Almost the same phrase occurs in Dr. Skelton's draft.

DR. SKELTON: The only suggestion I could make is on the question of the form that any statement is to take, and then how far we can usefully make it less a pronunciamiento directed at the head of the League, by making it more or less complementary to the 1923 Resolution and as general as possible in its terms. I have a feeling that the less we say here as to what our position in the League of Nations is the better, from the points of view both of whether we have the right as seven members of the League to lay that down in general terms and of the possibility of raising discussion in the League after a general statement has been made.

SIR CECIL HURST: There would be a great advantage in adopting some procedure which would prevent this question being constantly raised at Geneva. I will not say it has been raised constantly in the past, but it has cropped up not infrequently when Conferences have been taking place, and it would be a great advantage to escape, if we could, from having any similar repetition of the matter in future by making what Dr. Skelton calls a pronunciamiento once and for all. . . .

MR. COSTELLO: Sir Cecil, what is the advantage of the draft circulated on your behalf to that suggested by Dr. Skelton, comparing the two?

SIR CECIL HURST: The draft that I circulated I understood was at the request of the Committee; the draft is composed of two things, a specimen form of treaty and a draft resolution, and they were both prepared two or three days before the document submitted by Dr. Skelton.

MR. COSTELLO: I am discussing those two points in paragraph 1 of your draft and the suggested reforms of Dr. Skelton. I want those two compared. It is not so much the form, what I want to get at is, is there any essential difference between Dr. Skelton's suggestion and the suggestion in paragraph 1 of your draft?

MR. BRUCE: It seems to me a point arises, quite apart from which of these two drafts would be the more suitable, in this fact, that what we are concerned about, I understand, is the question of the form in which a treaty shall be signed and the general procedure in regard to treaties. But I did not understand that the object of this Committee was to endeavour to lay down in words what is the exact position of Great Britain and the various Dominions at the League of Nations, and I think it would be an extraordinarily undesirable thing to attempt to do anything of the sort from the point of view of the Dominions in particular. We have a very wonderful recognition at the League of Nations, and I think the last thing we should do is to try and promote any discussion about it. In the Prime Ministers' Committee we, as a preface to anything that is coming in under any of these reports, are trying to frame a few words to define that which we take as an accepted fact, namely, what the position of the British Empire is; and inside that definition—it is not a definition—but inside that preface to the question we deal with generally, you will have that fact that all the self-governing parts of the Empire are

autonomous, but that they are in a peculiar relationship one to another owing to the fact that they are all members of the British Nation. Surely that covers 1 and 2 straight away. There is no need to touch this and that avoids the bringing up of this question to the League of Nations and possibly having foreign countries arguing about it, which, I think, is extremely undesirable. The suggestion I would make is, if we can agree upon the method of dealing with treaties—for example, the substitution of the Head of the State for the British Empire as far as League treaties are concerned—that we should merely reaffirm the Resolution which we passed in 1923 and add on to it “and in addition with regard to treaties the following procedure should be observed: that treaties”—I would not mention the League of Nations—I would merely say “that treaties generally should be entered into by the Head of the State,” and then follow out the general procedure suggested and outlined here. I think that will avoid a lot of difficulty which we shall otherwise get into in attempting a definition.

MR. LAPOINTE: I am willing to agree with you. . . .

SIR FRANCIS BELL: Cannot we arrive at this? I wish we could. You know the objection of some of us to making this settlement of the form of the treaty a vehicle for a declaration to foreign nations as to our status. Why should we want to use this as a vehicle? Our business is only to settle for the Foreign Office the form that should be adopted. It is quite true that there is the duplication of the expression “British Empire” which we wish to avoid, and we can state that; but why should we make the settlement of the form of treaty a vehicle for a declaration of our internal relations? We are not likely to agree upon a declaration beyond the status declared in 1923. Let us do it by other means; but do not let us import into this settlement of the mere form, or the principle and form, of the method of treaty, and take that as the occasion for using language which it is not likely that all round this table will agree upon. It may be that by a long process we might arrive at a harmless form, but that would not suit Mr. Fitzgerald. Quite candidly, both he and the General have said that this is a useful occasion for presenting a card to the foreign nations and saying, “this is an extension of the principles of 1923.” We are a set of business people settling forms; why make it a vehicle for settling substance? I do not think it is likely that we should be in accord upon any settlement of that kind, though we can be in accord in arriving with Sir Cecil Hurst at a form which the Foreign Office can use without embarrassment. I do not think Mr. Fitzgerald disguises that he would like to use this for something to be shown to foreign nations.

MR. FITZGERALD: I am not disguising that; I am satisfied that it will, in my opinion, have the inverse effect.

SIR FRANCIS BELL: Well, I sympathise with and recognise the object of Mr. Fitzgerald. The difficulty that I can see is that we cannot agree upon that, and we can agree upon a matter of form. . . .

DR. SKELTON: I absolutely agree with Sir Francis Bell that, if we can agree upon a form, that is the gist of the whole matter; if it is substituted by declaration, then that introduces a very difficult question of how that is going to be framed.

SIR FRANCIS BELL: If you will agree with me to avoid using it as a vehicle for something more, you will find me only too ready in giving any help I can; but I cannot agree in the formula, because I know that anything that will satisfy me will not satisfy you. I have always wanted to stop at the point from which you start.

MR. FITZGERALD: At present I am all for putting the brake on.

SIR FRANCIS BELL: I think, if Sir Cecil would mould his form on that principle, and give us a form which is desirable and the reasons that actuate us, we could put this about the separate relations, if you like, but it will have to be put in language that will satisfy Mr. Fitzgerald and the General; but if Sir Cecil would mould his resolutions on that principle, then I do not think we shall be five minutes in agreeing.

SIR CECIL HURST: Then, in that case, it is quite clear that we must come back to having in the treaty itself everything that is to safeguard our position. Are we to go back to maintaining the position of the central panel? We seem to be going round in a circle.

DR. SKELTON: We have already in the form, without any addition of a declaration as indicating the special relation between the different parts of the Empire, the mention of the King, with the names grouped together, at least in the preamble, and possibly in the signatures. I think we would probably agree to that form in the signature as well as in the preamble. We have, further, the practice laid down in 1925 at the League. Are not these sufficient indications of that special relationship without some general clause?

SIR CECIL HURST: A general clause in the treaty?

DR. SKELTON: Yes, or the general statement now.

SIR CECIL HURST: The two things are very different.

DR. SKELTON: There is something to be said, perhaps, for making a specific statement at the time of concluding a treaty for or against application between ourselves; conceivably there might be treaties which we should desire should apply between different parts of the Empire.

SIR CECIL HURST: Paragraph 6 of this draft deals with that.

DR. SKELTON: There might be a League treaty as distinct from an administrative arrangement which we might wish to apply among ourselves. I have mentioned the Opium Convention, and there might be others; so, if it is



thought that it is necessary to safeguard the position further, it is question of whether a clause in the specific treaty might not be inserted at the time. At the same time, I am bound to say that the reference to the King and the practice since 1925 do seem to avoid any misinterpretation.

SIR CECIL HURST: The point is that we can safeguard our position by making it abundantly clear that that is the footing upon which we open negotiations. That was the purpose of the proposed declaration in paragraph 1.

DR. SKELTON: That raises the question, as Mr. Fitzgerald has stated, whether we should state the other half, to make clear the emphasis that is required in each direction.

SIR CECIL HURST: The purpose of the declaration is to make the special relationship clearer.

DR. SKELTON: Still, I am simply raising the question whether it is necessary after the other indications to have an additional declaration to that effect. . . .

MR. LAPOINTE: May I suggest that we adjourn and appoint a Drafting Committee of three or four, to come to the next meeting of this Sub-Committee on Tuesday and submit what their combined wisdom has produced? I confess that General Hertzog's suggestion of the two paragraphs 3 and 4 becoming 1 and 2 appeals to me, so far as I am concerned. Then Mr. Fitzgerald has another draft.

MR. FITZGERALD: I was trying to convey what Sir Cecil Hurst said. I thought it conveyed clearly what he intended, and did not tend to derogate from our position in the League of Nations and internationally generally.

MR. LAPOINTE: Supposing Sir Cecil Hurst, Mr. Fitzgerald and Dr. Skelton get together and draft a Resolution. If it is accepted by the three of them I am sure we shall accept it on Tuesday. I think that would be the best way of expediting our work.

MR. HARDING: Might I suggest that not only should this sub-committee prepare a draft resolution—I am now looking at it from the point of view of the Secretariat of the Conference—but, if possible, that it should prepare a draft Report to Lord Balfour's Committee because time is getting so short? If it is not done soon, we shall be holding up the Conference.

MR. LAPOINTE: I am willing to accept the suggestion if the others do.

SIR CECIL HURST: The draft Report, I take it, will cover all the matters in E. 104 that are agreed, even though they may seem to be matters of some detail.

MR. LAPOINTE: I take it then that it is agreed that Sir Cecil Hurst, Dr. Skelton and Mr. Fitzgerald should form the sub-committee. . . .



129.

*Extraits du procès-verbal de la Conférence impériale, 1926**Extracts from Minutes of Imperial Conference, 1926*

Twelfth Meeting

November 15, 1926

SECRET

## DEFENCE

MR. BALDWIN: . . . Mr. Mackenzie King, would you be good enough to proceed if you have anything to say on the statements made on the 26th October?

## STATEMENT BY THE PRIME MINISTER OF CANADA

## Appreciation of Statements and of Service Demonstrations

MR. MACKENZIE KING: I desire at the outset of my remarks to express appreciation of the comprehensive and illuminating statements which have been made with respect to each of the three Services, and of the clear indication they give of the efficiency of the organization for defence. I wish also to say a word of real appreciation of what has been done by the Services in arranging the extremely effective demonstrations at Croydon, Portland, and Camberley. They have provided exceptional opportunities of becoming acquainted with the almost revolutionary changes that are being made in the art and practice of war, and emphasise the need of all parts of the Empire keeping abreast of the rapid changes and developments occurring in all three fields.

## Defence Organization in Canada

In 1922 the Canadian Government decided to organize one department to contain the three services and deal with all questions of defence. The Department of National Defence accordingly came into being in January, 1923. This close association of the services has been, in the main, productive of efficiency and economy, though a good deal yet remains to be done before the organization can be considered satisfactory. For the most part the principles laid down by the Imperial Organization Committee of 1919, appointed by the then Secretary of State for War, Mr. Winston Churchill, have hitherto been followed in the organization of the department.

In the Royal Military College at Kingston Canada possesses a Training School for Officers which I believe is recognized as very efficient. The capacity of the College has recently been increased to 200 Gentlemen Cadets. It is proposed that in future Officers for all three services will be drawn chiefly from this source.

### Army

In military matters, the general policy of Canada has been the organization and training of our forces on lines similar to those maintained in Great Britain, with the necessary changes required by local conditions. As a result of the experience gained in the past, and particularly in the Great War, Canada has now an organized military force of considerable size, which should be sufficient for peace-time needs, with certain additions and changes to give a better proportion of arms. As war-time experienced officers and other ranks drop out, it becomes necessary to increase the period of training given to our forces, and the trend toward the mechanicalization of the Army will make it necessary to consider organization, training, and equipment from this angle. We are now in possession of much more equipment, and of a more suitable description, than ever before, though some of it is now obsolescent.

The Royal Canadian Corps of Signals is being expanded and used to provide a Wireless Service in the Yukon and Mackenzie River Valley. The extension of this system to the Hudson's Bay and Hudson's Straits is under consideration. The Royal Canadian Corps of Signals is thus able to perform a service of public utility, while at the same time obtaining valuable technical and practical training.

The peace establishment of the militia of Canada calls for a strength of, roughly, 130,000 all ranks. At present this force is recruited to approximately 50 per cent of its strength.

Among the steps taken to ensure that the Canadian forces are trained as closely as possible on the same lines as the British may be mentioned the interchange of officers, and attendance of officers at numerous courses in England, including the Staff College, and exchange of visits between staff officers.

### Navy

Our naval activities are as yet on a small scale. It is not necessary to detail the circumstances which prevented the growth of the Canadian Navy along the lines which we anticipated in 1909. The special geographical position of Canada would have made it unnecessary to aspire to very rapid or extensive development, but, had it not been for the circumstances to which I allude, we could doubtless have reasonably expected a more adequate force than as yet exists. I cannot say when that "active and determined support of public opinion" which is so properly stated in the Committee of Imperial Defence memorandum on Empire Naval Policy and Co-operation of 1923 as being essential for the effective maintenance of naval forces will make it possible to advance to a further phase, but the question is receiving consideration.

The policy on which the naval activities of the Dominion are based at present is one of developing the local defence of the waters in the vicinity of Canadian coasts and the approaches to our ports. Also it is considered that any naval programme should, as far as possible, be one which will admit of the personnel being for the most part, and as soon as practicable, entirely Canadian. There is also in effect a system of co-operation in staff work and

an arrangement of periodical service with the Royal Navy by officers and men of the Royal Canadian Navy in order that they may be trained to carry out their duties in all respects on similar lines.

In conformity with the above policy it may be stated that in the last five and a half years the personnel of the permanent Canadian Navy has been transformed from 450 officers and men borrowed or specially engaged from Great Britain, and 50 Canadians, to 40 borrowed ranks and ratings and 460 Canadians. The Royal Canadian Naval Volunteer Reserve has been organized in the last three and a half years, and is up to its full authorized strength of 1,000 officers and men. There is also a Royal Canadian Naval Reserve of 150 officers and men. The naval training centres at Esquimalt and Halifax are efficiently equipped to train the personnel of the permanent and reserve forces. A considerable amount of work has been done by the naval service of Canada in giving the periodical training required to be carried out by the Royal Fleet Reserve men of the Royal Navy resident in Canada.

### Air Force

Before and during the Great War, Canada had no Air Force of her own, although 10,000 Canadians served in the Aerial Forces of Great Britain in the war against Germany.

Soon after the Armistice, in 1919, the organization of a Canadian Air Force was commenced, and has proceeded gradually, and on the 1st April, 1923, the Royal Canadian Air Force was established on a regular military basis.

The establishment and organization of the force was greatly assisted by the presentation by Great Britain to the Canadian Government of a considerable quantity of aerial equipment in 1919.

The organization and training of this Force has followed closely that of the Royal Air Force, and very substantial progress has been made. Two training centres and six stations (three temporary, during the summer months) have been established in various parts of the country, so as to carry out the several duties of the Royal Canadian Air Force.

The Royal Canadian Air Force conducts flying courses for students of the different Universities, including the Royal Military College. These courses qualify for appointment to the Royal Canadian Air Force, the Non-permanent Air Force, and the Reserve thereto. By an arrangement just made these qualifications are also accepted for permanent commissions in the Royal Air Force.

Officers of the Royal Canadian Air Force are in attendance at the Air Force Staff College, Andover, and at the Naval Staff College, Greenwich. Others are taking courses at various Schools in England.

An exchange of officers has recently been arranged, and liaison visits are also carried out periodically.

In Canada at present the Royal Canadian Air Force devotes a considerable part of its energies in carrying out flying for:

(a.) Other Departments of the Government on duties such as Aerial Survey and Forestry Protection.

(b.) Promotion of Civil Aviation in its various branches.

These duties constitute most valuable practical training for the personnel employed on them.

As will be noted from the Memorandum prepared for this Imperial Conference by the Air Ministry, the Royal Canadian Air Force has made commendable advances in the civil side of its work. As I mentioned at a previous session of the Conference, immense areas are being surveyed annually, and millions of acres of valuable forest land protected. The work on the civil side is of such a nature that it provides practical training for the Air Force personnel.

As Civil Aviation has a direct relation to the creation of a Military Air Force, and serves to create a reserve thereto, it is, perhaps, in this field that Canada will make the most marked development as regards defence. By the Air Force Regulations an individual who obtains a Pilot's certificate automatically becomes a Reservist.

Considerable support for the Air Policy of the Government is forthcoming because of the productive and useful nature of the work carried out by the Royal Canadian Air Force. . . .

MR. BALDWIN: . . . .

### Publication of Speeches

There is rather a difficult question about the reporting of to-day's proceedings. Of course, a good many of the things that have been said had better not appear, particularly with regard to the alteration of shipping routes and things like that, and I think that perhaps it would be best if those who have spoken would consider whether they would like their speeches published in part, and, if they would, consult with Sir Maurice Hankey and Mr. Davidson as to editing them for that purpose. I think the opening address that was given on the 26th October should be published some time, with a good number of excisions, of course, but the plain statement of the work of the Committee of Imperial Defence should be given to our people. I have explained to the Conference that we have not had any opportunity of a debate in Parliament on that subject for many years, and I think it would be of great value both for Members of Parliament and for the public to be reminded again what are the functions of that Committee. A great part of the opening address which I gave could, I think, be published without doing any harm; in fact, I think its publication would be only beneficial, but I would like, before we separate this morning, to hear what the Prime Ministers and others who have spoken this morning feel about the publication of portions of their own speeches to-day. They were very informal, and I do not think they should be published as

delivered. If there are any particular parts of any speeches that the deliverer of that speech would like to get before the public, I think it is for him to say, but I think the main thing is to publish the description of the functions of the Committee of Imperial Defence with such excisions as we know to be desirable.

MR. MACKENZIE KING: I might say, Prime Minister, that one of the difficulties in speaking on defence here is the fact that the reports are read not only in Britain but in the Dominions.

MR. BALDWIN: That is why I think care should be exercised.

MR. MACKENZIE KING: And misunderstanding is apt to be created in the Dominions if they get an idea that the purpose of the Conference is to work out some Imperial scheme, if I may so call it, to which all are committed. In using that phrase, I wish to make it perfectly clear that I do not assert that anything of the kind is being attempted. Co-ordination and co-operation has been the note all the way through, but people, as we know, are so ready to misconstrue points that great care has to be taken in what is said, especially where publication is contemplated.

MR. BALDWIN: The readiness of people to misconstrue has made me feel that the bulk of the statement I made would be a useful one to publish. What do you think about it, Mr. Bruce?

MR. BRUCE: It seems to me we should publish something. I do not think we can leave defence entirely aside, because it was so clearly understood that defence was one of the questions we really had to consider seriously, and such a question as Singapore is of tremendous interest to Australia and New Zealand. I quite agree there ought to be considerable excisions from what has been said, so as to leave no debatable matters in any speech. . . .

130.

*Extraits du procès-verbal du sous-comité  
sur la procédure en matière de Traité*

*Extracts from Minutes of Sub-Committee on Treaty Procedure*

Ninth Meeting

November 16, 1926

SECRET

MR. LAPOINTE: At the last meeting we appointed a sub-committee for the purpose of trying to draft the Report of the Committee from the Sub-Committee—Sir Cecil Hurst, Mr. Fitzgerald and Dr. Skelton—and I am pleased to say that they have agreed upon the form of the report which has been circulated.

SIR FRANCIS BELL: I have had an opportunity of reading the report and am absolutely content with it. I have not a word to say against it.



MR. LAPOINTE: I had better now read the report.  
(Draft Report read)<sup>1</sup>. . .

DR. SKELTON: There is the question of a satisfactory definition for non-League treaties. It seems odd to use in such treaties the descriptive term here suggested: "Great Britain and Northern Ireland and all other parts of the Empire which are not separate members of the League of Nations."

SIR FRANCIS BELL: It is very difficult to define it otherwise.

DR. SKELTON: Very difficult, other than to refer to the "Self-Governing Dominions," but I have no suggestion. I was wondering if Sir Cecil Hurst has anything for us.

SIR CECIL HURST: I said we would think the matter over to see if we could find some form that could be substituted in the case of non-League treaties, but up to the moment I personally have not had time to find it. I had hopes that we might receive suggestions from other quarters.

MR. FITZGERALD: I think we can accept it until an alternative is produced.

SIR CECIL HURST: At the moment.

MR. LAPOINTE: There is nothing wrong about it except that it seems too long. . .

SIR FRANCIS BELL: I think we all want to express our appreciation to you, Mr. Chairman, for patience which exceeds so far that of Job that you deserve to have the monument on which patience sits smiling at grief.

MR. LAPOINTE: I will send you my photograph. Is there anything else for us to do. I suppose this concludes our work, and we must thank our Secretaries for the strenuous work they have done.

(The proceedings of the Sub-Committee then terminated.)

### 131.

*Extrait du procès-verbal de la Conférence impériale, 1926*

*Extract from Minutes of Imperial Conference, 1926*

Thirteenth Meeting

November 18, 1926

SECRET

. . .

IMPERIAL SHIPPING COMMITTEE AND IMPERIAL ECONOMIC COMMITTEE

MR. BALDWIN: . . . .

<sup>1</sup> Quelques amendements mineurs furent apportés au projet avant qu'il ne fut agréé. Pour le texte du Rapport prière de consulter M. Ollivier, *Colonial and Imperial Conferences*, Vol. III, pp. 151-154.

<sup>2</sup> A few minor changes were made in the draft before it was adopted. For the text of the Report see M. Ollivier, *Colonial and Imperial Conferences*, Vol. III, pp. 151-154.

### Future of Imperial Economic Committee

I believe, Mr. Mackenzie King, that you have been considering the substance of a Resolution with regard to the future of the Imperial Economic Committee. I do not know whether you propose to move a Resolution on that?

MR. MACKENZIE KING: I have a Resolution here which I think will be satisfactory:

The Imperial Conference is of opinion that the Imperial Economic Committee should continue on its present *ad hoc* basis with the following general reference:

1. To complete the series of investigations into the marketing of Empire foodstuffs in Great Britain, and while this work is proceeding—

2. To put forward for the consideration of the various Governments concerned (a) a list of raw materials for possible further marketing enquiries, and (b) suggestions for the preparation and circulation of brief preliminary surveys as suggested by the General Economic Sub-Committee of the Conference, of any branch of Empire trade and marketing, such preliminary surveys, if the Governments concerned so desire, to be followed up by fuller enquiries.

I think that will be satisfactory to Mr. Bruce.

MR. BRUCE: Yes. I will second that Resolution.

MR. BALDWIN: Will those in favour please say "Aye"?

(Resolution carried unanimously.)

...

132.

*Extraits du procès-verbal du comité des relations intra-impériales*

*Extracts from Minutes of Committee on Inter-Imperial Relations*

Fourteenth Meeting

November 18, 1926

SECRET

...

As regards page 13 of the draft Report, MR. AMERY suggested that paragraph i (a) might be omitted, since the matters referred to in it were covered by paragraph ii. He also suggested that paragraph i (b) might be omitted, since it dealt not with the relations between Ministers in Great Britain and Ministers in the Dominions, but with the relations between the Crown and Ministers, and therefore seemed inappropriate in the present report. The paragraph as it stood might raise questions in relation to the right of the Governor of one of the Australian States to withhold assent to legislation effecting a fundamental change in the Constitution of the State. In Great Britain it was recognized that the latent power of the Crown to refuse assent

to legislation, though not exercised in normal circumstances, might in exceptional circumstances have to be employed, e.g., if Parliament were to pass legislation prolonging its life for an indefinite or very long period.

MR. O'HIGGINS pointed out that the whole of this paragraph was governed by the last paragraph on page 12 and the first paragraph on page 13. In the Irish Free State the question of withholding of assent to and reservation of legislation was governed by Article 41 of the Constitution, which laid it down that the Governor-General should act in accordance with the constitutional usage of Canada, and he understood paragraph i (b) was intended only to describe the constitutional usage in refuse [*sic*] assent to the legislation of a Dominion.

MR. AMERY said that paragraph i (b) might be read as an attempt by the Conference to lay down a general principle that in no circumstances could the Crown refuse assent to the legislation of a Dominion.

MR. MACKENZIE KING thought that a Governor-General should never be placed in the position of refusing assent to or reserving legislation against the advice of his Ministers.

MR. BRUCE thought that a distinction should be drawn between reservation and the withholding of assent. Having regard to the principle of equality of status, he did not wish any constitutional principle to be laid down as to the relations between the Crown and Ministers in a Dominion which was not equally laid down as to the relations between His Majesty and Ministers in Great Britain.

MR. O'HIGGINS suggested that the words "on any advice other than that of the Ministers of such Dominion" might be substituted for "against the advice of Ministers of such Dominion." This would leave cases in which action was taken without the advice of any Ministers outside the scope of the paragraph.

GENERAL HERTZOG supported Mr. O'Higgins's proposal.

It was agreed that further consideration of Mr. O'Higgins's proposal should be deferred until the meeting of the afternoon, in order that the Lord Chancellor and the Attorney-General might have an opportunity of taking part in the discussion . . . .

(The Committee then adjourned until 3.15 p.m., when Sir Douglas Hogg was present.)

LORD BALFOUR explained the position which had been reached when the meeting adjourned.

LORD BIRKENHEAD said that it was obviously important, without the sacrifice of anything vital, to meet the wishes of those who had differed from Mr. Amery's suggestion for the omission of the paragraphs in question. He doubted whether the reasons given for the omission of those paragraphs were adequate. i (a) appeared to him to be a commonplace, and he could not conceive that any British Cabinet would act in the way therein mentioned. He referred to a statement by Mr. Joseph Chamberlain in a despatch relating to

the Reid Contract in Newfoundland, to the effect that in no circumstances would a Cabinet in Great Britain interfere with the affairs of a Dominion. However, tautology was better than dissent. With regard to i (b), these words were important, because they led to the discussion initiated by Mr. Bruce in the morning as to the ultimate implication of the conception of the Crown as a common bond of Empire. There was no difference in the position of a Dominion in such a matter from that of Great Britain. Certain illustrations, however, had been mentioned of cases in which it was remotely conceivable—though not probable—that some Parliament would act in a way quite contrary to constitutional practice as conceived in Great Britain; in such a case, unless the parliament were to be left uncorrected, it must be corrected by the Crown at any risk. He would be willing to face the risk of intervention of the Crown in such a case. In Great Britain it was 140 years since the Crown had intervened against the advice of Ministers, and, though such intervention had been successful, he himself doubted whether similar action would again be taken by the Crown. With regard to i (b), he would say that a Governor-General would have to take the same risk as the Crown would have to take in Great Britain. He personally was prepared to accept the words proposed by Mr. O'Higgins and General Hertzog.

(At this point Lord Cave entered.)

LORD CAVE said that paragraph i (a) did not appear to him to be quite a commonplace. He had agreed that all these important matters should be referred to a committee, but he considered that their terms of reference should be general, and that it should be left open to everyone concerned to raise vital questions in which they were interested if they wished. Paragraph i (b), as originally worded in the draft Report, would remove from the Governor-General in relation to Dominion legislation the right possessed by His Majesty as regards legislation in Great Britain.

LORD BIRKENHEAD then showed Lord Cave the formula proposed by Mr. O'Higgins and supported by General Hertzog, and with this LORD CAVE said that he would be content.

As regards paragraph i (a), LORD CAVE pointed out that if a Bill were reserved for signification of His Majesty's pleasure, His Majesty must be advised by some body of Ministers.

SIR AUSTEN CHAMBERLAIN said that the King was not bound to act in Great Britain on the advice of any existing Ministers, but could summon new ones. His Representative in the Dominions was in the same position; he also was justified in dismissing his Ministers and summoning new ones.

LORD CAVE said that the Governor-General could reserve Bills on his own initiative. Provision was made for reservation in certain cases by statute, and the Governor-General might reserve a Bill against the advice of his Ministers. In that event there must be some means of advising His Majesty whether he should assent or not, and the only persons who could so advise His Majesty must be Ministers in Great Britain.

MR. O'HIGGINS said that it was held by the Irish Free State Government that the Governor-General was an emanation of His Majesty and not of the Government in Great Britain. The Crown was advised in the person of the Governor-General by Dominion Ministers to accept a Bill, and it would be proper that the Crown should take action in such a case precisely as would be the case in Great Britain.

(Lord Cave withdrew at this point.)

SIR DOUGLAS HOGG said that he had great difficulty in seeing anything in paragraph i which was not contained in paragraph ii. If two separate propositions were stated, the implication to a lawyer was that they must contain different meanings. He would have preferred that there should only be a wide general statement unqualified by particular instances. He would therefore prefer that paragraph i should be omitted.

LORD BIRKENHEAD then suggested that the words "against the views of the Dominion Government concerned" at the end of paragraph ii should be struck out. The Constitution had not always been confined in language, and it was necessary to be cautious in putting general constitutional principles into words. He thought that the same analogy might be drawn between the position of the Governor-General as described in paragraph i (*b*) and the position of the Governor of one of the Australian States. He was nervous about formulating the two particular instances quoted in paragraph i which the Lord Chancellor did not think were constitutionally sound, and which at the best must be covered by the general statement in paragraph ii.

MR. MACKENZIE KING said that he thought that the expression of the principle involved seemed to him stronger if paragraph i were omitted and the word "exclusive" put before the word "right" in paragraph ii, and the words "against the views of the Dominion Government concerned" were omitted.

MR. O'HIGGINS said that he would have agreed to this proposal if there had been unanimity amongst the British lawyers; but he was concerned that the Lord Chancellor did not regard paragraphs i and ii as tautologous. He himself did not appreciate the distinction between the two paragraphs, but he felt anxious at what the Lord Chancellor had said. If it were clear that paragraph ii embodied what was said in paragraph i, he would be content.

LORD BIRKENHEAD said that a special note would appear in the minutes that paragraph i was struck out because it was adequately and fully embodied in paragraph ii . . . .

The passage of the draft report was then adopted with the omission of (*a*) and (*b*) from paragraph i, and with the alterations which had been suggested by Mr. Mackenzie King.

Other amendments and verbal alterations were agreed to, and the Report thus modified was adopted.<sup>1</sup>

<sup>1</sup>Le rapport se trouve dans M. Ollivier, *op. cit.*, pp. 145-158.

<sup>1</sup>For the text of the Report see, M. Ollivier, *op. cit.*, pp. 145-158.



133.

*Extraits du procès-verbal de la Conférence impériale, 1926**Extracts from Minutes of Imperial Conference, 1926*

Fourteenth Meeting

November 19, 1926

SECRET

## DEFENCE

MR. BALDWIN: The first business on the Agenda to-day is to consider the draft Resolutions on Defence, to which a great deal of attention has been given, and which, I understand, are now in a form which commends them to all of those who were concerned in the drafting of them. I have to ask the Conference if they approve of the Resolutions which have been circulated. I do not know if anyone would like to make any observations on them.

MR. MACKENZIE KING: They are quite satisfactory, so far as we are concerned.

MR. BRUCE: No observations.

MR. COATES: No observations.

MR. O'HIGGINS: No observations.

MR. BALDWIN: Then may we take them as approved?

(Resolutions agreed to.) . . .

## OVERSEA SETTLEMENT

MR. BALDWIN: The next Report deals with a subject which, I think, is one of the most vital importance to the whole Empire—the question of Oversea Settlement. I think Mr. Amery would like to say a few words, and I have no doubt one or two of the Prime Ministers would desire also to say something about that.

MR. AMERY: I did not contemplate saying anything myself. I think, if I may say so—I was not directly responsible myself—Lord Clarendon and those associated with him have produced a very valuable Report. This is a subject, I agree with you, which is perhaps the most important, certainly to large sections of the Empire at present and perhaps to others in some more distant future. But the great thing is to get away from generalities and down to real practical business and co-operation; and it seems to me the Report of this Committee marks in this respect a substantial advance both on 1921 and on three years ago, and that we shall see in the next few years a practical development of this better distribution of our population for the benefit of each part of the Empire, which we all desire.

MR. MACKENZIE KING: I endorse what has been said by the Secretary of State for Dominion Affairs. I agree as to the great importance of the whole Empire Settlement plan. There are one or two observations I might make with reference to the Report by the Earl of Clarendon on his recent visit to Canada. There are words in it to which I may pardonably call attention:

We briefly describe our tour, and have recorded our opinion that the Three Thousand Families Scheme promises to become the most successful effort in colonization undertaken by any Government in modern times.

Perhaps I may be allowed to express appreciation on the part of Canada of Lord Clarendon's visit to our Dominion, and of his valuable services as Chairman of the Oversea Settlement Committee.

I observe that the Sub-Committee's Report, instead of suggesting a continuation of the Family Settlement Scheme, in terms that would mean heavy capital expenditure in land purchase, has sought to work out a basis by which holders of unoccupied lands may, by co-operation with His Majesty's Governments in Great Britain and in Canada, secure practical help in finding, transporting, and settling British people on lands which at present are non-productive. I think this is a wise step, as it is better to adopt a working basis which can be applied to any unoccupied suitable land, than to announce some large scheme which would have the effect of increasing land prices rather than land values.

We in Canada have built up at considerable cost a strong, effective organization, competent not only to select land but also to give the settler the maximum of protection and advice during the first few difficult years.

I am pleased to be able to say that, after careful consideration of the whole matter, we have decided to establish on this side a Canadian medical and civil inspection, which will do away, I believe, almost entirely with the dangers and disappointments of selling up a home and going out to Canada on the chance of being rejected at the port of arrival. This service will extend not only to those receiving passage assistance, but to all classes of migrants for Canada, and will be given by the Canadian Government without any charge to the passenger.

One of the benefits of such a Conference as this, perhaps not the least, is the opportunity to get a better understanding of each other's difficulties and problems. If our representaives on the Oversea Settlement Sub-Committee have not been able to go as far in some directions as the Mother Country is prepared to go, it is only because of conditions which we in Canada have to meet. We want to see the stream of British migrants increase to the limit of our capacity to absorb, though not beyond that capacity. I believe that we have not reached the limit of what may be done, and I am sure that the future will reveal avenues of service where, by the co-operation of both Governments, we will continue and extend the work of Empire distribution and settlement to which we have set our hand . . . .

134.

*Extrait du procès-verbal du comité des relations intra-impériales*  
*Extract from Minutes of Committee on Inter-Imperial Relations*

Fifteenth Meeting

November 19, 1926

MOST SECRET

MR. AMERY drew the attention of the Committee on Inter-Imperial Relations to the following passage on pages 10 and 11 of the Report of the Committee (E. 129), which had been circulated to the Imperial Conference on the previous evening:

On this point we propose that it should be placed on record that, apart from provisions embodied in constitutions or in specific statutes expressly providing for reservation, the constitutional practice is that it is the exclusive right of the Government of each Dominion to advise the Crown in all matters relating to its own affairs, and that advice would not be tendered to His Majesty by His Majesty's Government in Great Britain in any matter appertaining to the affairs of a Dominion.

On examination, he had found that the wording of this passage was open to certain practical objections, insomuch as it would prevent the British Government from offering any advice whatsoever to His Majesty the King in any matter appertaining to the affairs of a Dominion—even on a purely formal question. He gave several instances of matters in which the Secretary of State for Dominion Affairs might be called upon to give advice to the King. Sometimes, for example, petitions were received by the King from private persons or from native races in a Dominion, and in such a case the Secretary of State for Dominion Affairs would advise the King to refer the matter to the Government concerned. Another example was in regard to the appointment of Governors-General. He thought it would be generally agreed as in the interests of the Dominions themselves that His Majesty's Government in Great Britain should be a party in advising the King on this matter, and for some years the practice had been to advise the King in agreement with the Government of the Dominion concerned. Even in matters of this kind His Majesty's Government in Great Britain would, by the terms of the paragraph quoted above, be precluded from offering advice to His Majesty. Mr. Amery therefore suggested that some alternative draft should be adopted.

After a short discussion, the following formula was agreed to, and the Secretary was instructed to circulate it as a corrigendum to E. 129:

On this point we propose that it should be placed on record that, apart from provisions embodied in constitutions or in specific statutes expressly providing for reservation, it is recognised that it is the right of the Government of each Dominion to advise the Crown in all matters relating to its own affairs. Consequently, it would not be in accordance with constitutional practice for advice to be tendered to His Majesty by His Majesty's Government in Great Britain in any matter appertaining to the affairs of a Dominion against the views of the Government of that Dominion.

135.

*Le secrétaire aux Dominions au Gouverneur général*  
*Dominions Secretary to Governor General*

TELEGRAM

London, December 8, 1926

SECRET. My despatch of November 5th, Dominions 498, Secret. We have been examining the proposed new Treaty with Hedjaz in light of the recommendations contained in the report of the Committee of the Imperial Conference on Inter-Imperial Relations, which was adopted at the Conference (see summary of proceedings of the Conference of which copy enclosed in my despatch of November 30th, Dominions 546).

Proposed Treaty, while mainly concerning H.M. Government in Great Britain, contains certain provisions of general application (see paragraph 4 of despatch of November 5th). These have had to be bi-lateral in order to secure corresponding undertakings on the part of the King of Hedjaz, and it could be difficult, consistent with the scheme of the Treaty, to restrict their application to specific parts of the Empire. It is therefore hoped that Dominion Governments will have no objections to signature of the Treaty as it stands.

Treaty is to be signed at Jeddah, and full powers from His Majesty; containing no geographical limitation, had already been issued to the Acting British Consul there before the opening of the Imperial Conference. Would your Ministers be willing that the Treaty should be signed by the Acting Consul in the name of His Majesty under this full powers, without any geographical description appearing either in the preamble or against his signature? This procedure would seem most convenient in the circumstances. I should be grateful for early reply, as it is expected that the Treaty will be ready for signature shortly.

Similar enquiry is being made to other Dominions.

136.

*Le Gouverneur général au secrétaire aux Dominions*  
*Governor General to Dominions Secretary*

TELEGRAM

Ottawa, April 16, 1927

Your telegram April 11th. Canadian Government considers the Hedjaz Treaty as essentially one of concern to His Majesty's Government Great Britain and that under the present arrangement the Full Powers issued would bear a corresponding geographical limitation. Under the circumstances, however, they have no objection to signature by the Consul under the Full Power already issued, it being understood that the Canadian Government does not contemplate advising ratification.

137.

*Le secrétaire aux Dominions au Gouverneur général**Dominions Secretary to Governor General*

TELEGRAM

London, May 2, 1927

SECRET. Your telegram of April 16th. We entirely agree that the proposed Treaty with Hedjaz is one mainly of concern to H.M. Government in Great Britain but as regards the concluding words of your telegram, it will, of course, be remembered that the Draft Treaty refers to certain obligations which are expressed as being of general application (see my telegram of December 8th). As explained in that telegram, the mention of such obligations in relation to His Majesty's territory is only necessary in order to secure observance of corresponding obligations on the part of the King of Hedjaz. Their observance in all H.M. territories might well have been taken for granted. Once, however, it had been found necessary that bilateral obligations of the kind in question should form the subject of Treaty stipulations, it became difficult on account of the special relationship between the different parts of the British Empire to express them as undertaken by His Britannic Majesty in respect of part of his territory only. For the same reason it became equally difficult to exclude nominatim from obligations undertaken by any specific part or parts of H.M. territory; to do so we would have implied what was obviously undesirable as well as untrue, viz., that the part or parts excluded reserved the right to act otherwise than in the manner described in the Treaty. It was these difficulties which led to the proposal that the Treaty should be framed in general terms and should be signed under Full Powers not limited by being expressed as conferring authority to negotiate in respect of a particular part of the Empire only.

In these circumstances the Treaty would appear to be of such a nature that it should eventually be ratified by H.M. The King in accordance with the Treaty Resolution of the Imperial Conference of 1923 and the recommendation of the Inter-Imperial Relations Committee of the Imperial Conference of 1926 with the concurrence of all Governments (see concluding paragraph of Section 5(b) of the report of the Inter-Imperial Relations Committee, page 25 of Command 2768). It is hoped, therefore, that should the Treaty in the form at present proposed, be signed under a Full Power, of the nature described above, by Sir Gilbert Clayton (to whom as mentioned in my telegram of March 9th negotiations have now been entrusted) H.M. Government in Great Britain would feel able, in order to give effect to the procedure contemplated in the case mentioned, to intimate formally that they had no objections to ratification of the Treaty.



138.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM

Ottawa, July 29, 1927

Your telegram of July 8th and preceding correspondence on Anglo-Hedjaz Treaty. As previously intimated Canadian Government considers that this treaty is one essentially of concern to His Majesty's Government in Great Britain, and that a corresponding geographical limitation should be observed in the issue of full powers and in ratification. Your telegram of May 2nd refers to the concluding paragraph of Section 5(b) of the Report of the Inter-imperial Relations Committee. This paragraph states that certain non-technical treaties should from their nature be concluded in a form which will render them binding upon all parts of the Empire, and for this purpose should be ratified with the concurrence of all the Governments. It is, however, further noted that any question as to whether the nature of the treaty is such that its ratification should be concurred in by all parts of the Empire is a matter for discussion and agreement between the Governments. This agreement should, we consider, be arrived at before the treaty is negotiated. The Canadian Government realizes that difficulties may arise in drafting a treaty so as to indicate that the obligations are undertaken by His Britannic Majesty in respect of one or several of his Governments and not of all, but it is considered that these difficulties can be surmounted. The position of the Canadian Government is that when a treaty is proposed involving obligations which it considers should apply to Canada, it would request the issue of full powers to a plenipotentiary on its behalf and, if agreement was reached, advise ratification. In the present instance in view of the fact that the treaty was initiated before the Imperial Conference of 1926, the Canadian Government did not object to signature under the full power already issued, and will not object to the ratification of the treaty. It is desired to make clear, however, that this is not to constitute a precedent and that it is assumed that in the case of future treaties, unless the Canadian Government has explicitly agreed that its obligations should extend to Canada, the treaty would be so drawn as to require issue of full powers and ratification only by the Governments directly concerned.

139.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

PARAPHRASE OF TELEGRAM

London, November 11, 1927

PRIORITY. IMMEDIATE. VERY SECRET. Part One. Following for Prime Minister from Prime Minister. Begins. Conversations have now concluded be-

tween Secretary of State for Foreign Affairs and Sarwat Pasha, Prime Minister of Egypt. Result of conversations has been embodied in form of draft treaty which is acceptable to His Majesty's Government in Great Britain, and which we are prepared, if we receive concurrence of Governments of Dominions, to offer to Egypt. On his side Sarwat Pasha accepts draft personally and undertakes to do everything in his power to secure its acceptance by the Parliament of Egypt and its Government. In Part Two of this telegram<sup>1</sup> the text is given. Sarwat Pasha is not in a position to sign anything until he has returned and consulted his Government, and text has not been signed or initialed. Meanwhile it is of great importance that no information should become known as to character or even existence of such a document. In order that he may lose no time after his return to Egypt it is also of great importance that Sarwat Pasha should be given our final decision at the earliest possible moment. He is now on the way to Egypt and is seeking public and parliamentary support for the securing of his majority and for an alliance. For the earliest possible communication therefore of your views, we should be grateful. Final text has only today been decided on. [Ends.]

140.

*Le secrétaire d'État aux Affaires extérieures au  
secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

PARAPHRASE OF TELEGRAM

Ottawa, November 22, 1927

PRIORITY. VERY SECRET Following for Prime Minister from Prime Minister. Begins. Your telegram November 11th setting forth the outcome of negotiations between His Majesty's Government in Great Britain and the Prime Minister of Egypt has been considered with care by His Majesty's Government in Canada. On the issues which have occasioned differences for some years the Canadian Government has learned with satisfaction that there is good prospect of the British and Egyptian Governments reaching an agreement, and they would of course raise no objection to His Majesty's Government in Great Britain entering into an agreement embodying the substance of the draft treaty in appropriate form with the Government of Egypt. However, we could not contemplate recommending to Parliament that the treaty

<sup>1</sup> Non reproduit. Le préambule du projet de traité était ainsi libellé:

<sup>1</sup> Not printed. The preamble of the draft indicated that the treaty was between:

"His Majesty the King of Great Britain and Ireland and of the British Dominions beyond the seas, Emperor of India, and His Majesty the King of Egypt".

should be made applicable to Canada or undertake to participate in its ratification and signature. It is observed in this connection that it is His Majesty's Government in Great Britain which has directed the policy in the past as to its relations with Egypt, which has negotiated the present draft agreement and which is to administer the provisions and annexes set forth in the treaty. We consider that were an issue to be raised as to the assumption by Canada of military obligations in Europe or the Near East as would be inevitable were the Canadian Government to recommend entering into a military alliance with Egypt that it would be prejudicial to the relations between Canada and the other part of the British Empire as well as to the interests of Canada itself.

The Canadian Government as a Member of the British Commonwealth of Nations and of the League of Nations will be prepared if occasion arises in connection with the proposed treaty as in the case of Locarno and other regional agreements, to consider the policy to be adopted and if need be to be recommended to Parliament in the light of the situation then existing both at home and abroad. Ends.

## 141.

*Le secrétaire aux Dominions au secrétaire d'État aux Affaires extérieures*  
*Dominions Secretary to Secretary of State for External Affairs*

## PARAPHRASE OF TELEGRAM

London, December 2, 1927

SECRET. Following message from Prime Minister for Prime Minister. Begins. Despatch has now been sent to Lord Lloyd asking him to inform Sarwat that we are prepared to sign proposed treaty,<sup>1</sup> in view of the replies to my message of November 11th regarding the negotiations of a treaty of alliance with Egypt.

It is being made clear to Lord Lloyd, as regards the form, that the treaty should be concluded in the manner contemplated in the Report of the Inter-Imperial Relations Committee of the Imperial Conference, 1926, in case of a treaty made on behalf of one part of the Empire, i.e. that in the preamble it should be confined to Great Britain and Northern Ireland, and should be signed by a plenipotentiary holding a Full Power limited correspondingly. Ends.

<sup>1</sup> Le 4 mars, l'Égypte se désista.

<sup>1</sup> On March 4, 1928, Egypt refused to accept the treaty.

## PARTIE 2 / PART 2

CONFÉRENCE SUR LA PORTÉE DE LA  
LÉGISLATION DES DOMINIONS<sup>1</sup>CONFERENCE ON THE OPERATION OF  
DOMINION LEGISLATION<sup>1</sup>

142.

*Le sous-secrétaire d'État aux Affaires extérieures  
au ministre de la Justice*

*Under-Secretary of State for External Affairs to Minister of Justice*

PERSONAL

Ottawa, November 17, 1928

My dear Mr. Lapointe,

Attached is a telegram<sup>2</sup> from London, suggesting at last a date for the proposed Expert Committee on Operation of Dominion Legislation and sub-Conference on Merchant Shipping Legislation. I gather from what you have said that the suggestion for a meeting in the early autumn of 1929 will meet your approval. It will be sufficient to send an answer when you return and have had an opportunity to discuss the question with the Prime Minister.

When at Geneva last month, I discussed the question of preparation for the Conference with members of the British, Australian, South African and Irish delegations. The British said that they expected to have a preliminary memorandum ready this fall. The Australians had done nothing yet. The Irish said they had done nothing, but were going to work on it immediately on their return. Mr. Smit of South Africa said that he had already prepared a preliminary memorandum and promised to send me a copy of it. It arrived yesterday, and I have had a copy made for your use. I have not yet had time to go into it, but expect to do so this weekend.

We have also received a part of Dean Read's memorandum on the subject. The balance, including the study of merchant shipping legislation, will follow within two or three weeks. From a legal standpoint it seems to me a very competent document. The analysis of extra-territorial legislation is particularly good. His conclusions bear out the view which I used to give to my Constitutional Law classes in Queen's, based on a much more superficial knowledge of the subject than Dean Read possesses, that even under existing constitutional relations, there was no inherent and necessary limitation on Dominion extra-territorial jurisdiction in the appropriate field. The general recommendations, however, are somewhat disappointing. Dean Read has not fully absorbed your views. I gathered from incidental conversation that he

<sup>1</sup> Cette conférence s'intitulait «Conférence sur la portée de la législation des Dominions et de la Marine marchande.»

<sup>2</sup> Non reproduit.

<sup>1</sup> The full title of this conference was "Conference on the Operation of Dominion Legislation and Merchant Shipping."

<sup>2</sup> Not printed.

appreciated the position of the Canadian Government, but apparently not all lawyers are sufficiently free from the shackles of precedent to realize that legal difficulties exist only to be overcome. As I understand it, the purpose of our investigation should be to consider how far it is possible to remove every remaining vestige of Imperial legislative supremacy, save for the present the power of the British Parliament to amend the Canadian Constitution. I hope to be able to do a good deal of work on this subject in the next week or two, and to discuss it with you whenever you are free.

As soon as I have learned from Mr. King the outcome of a conversation which he had with Sir Austen Chamberlain on the subject of arbitration, I should like to bring some suggestions on that matter to your consideration, including the Optional Clause, the Arbitration Treaty with the United States, and the new League Conciliation and Arbitration Treaties.

I do not know whether you want to be bothered with these documents on your short visit. I hope that you will have a pleasant week.

Yours sincerely,

O.D. SKELTON

143.

*Extraits du procès-verbal de la Conférence sur la portée  
de la législation des Dominions*

*Extracts from Minutes of the Conference on the Operation  
of Dominion Legislation*

First Meeting

October 8, 1929

CONFIDENTIAL

LORD PASSFIELD: . . . .

Three years have passed since the memorable Imperial Conference of 1926 defined the constitutional position of Great Britain and the Dominions. Indeed, another meeting of the Imperial Conference would normally have been due this year. Various causes have resulted in delay, amongst them the fact that the preparatory study required before the present Conference could meet has proved to be more detailed and more intricate than was at first anticipated. But the delay has perhaps had its advantages. At least, we shall be able to base our examination of the particular questions before us, namely, the alterations needed in what I may call the legal structure of the British Commonwealth of Nations, on a knowledge of how the conclusions of the 1926 Conference are, on the political side, working out in practice. . . .

MR. LAPOINTE: My Lord Passfield, we have listened with much pleasure to the cordial welcome that you have extended on behalf of His Majesty's Government in the United Kingdom and to the lucid analysis of the subject-matter of our discussion by the Attorney-General. We appreciate deeply the friendly and co-operative spirit in which your Government is approaching the



task which lies before us. That same spirit of goodwill and co-operation is shared in equal measure, I am sure, by all the Dominion representatives, and will in itself go far to ensure a speedy and successful outcome of our labours.

As you have indicated, Mr. Chairman, we are assembled here in accordance with the recommendation contained in the report of the Imperial Conference of 1926. That Conference set forth in striking form its view of the constitutional position and mutual relations of the members of the British Commonwealth of Nations. It made it clear that full freedom and equality were at once the condition and the assurance of enduring association and effective strength. The principles there declared have been accepted by all His Majesty's Governments as the conventional basis of their present-day relationships.

The Conference found it desirable to register the development which had occurred in several specific fields. A recommendation was made as to the title of His Majesty the King. (May I take this opportunity, Mr. Chairman, of stating how deeply the recent illness of His Majesty has brought home to all his peoples not only a realisation of the indispensable part which the Crown plays as the great link between the members of the Commonwealth, but a realisation also of the good fortune which has given to us a Sovereign whose personal qualities have enabled him to exercise his high duties with supreme skill and devotion through difficult times). A definition was placed on record of the position held by the Governor-General as the representative of the Crown, holding in all essential respects the same position in relation to the administration of public affairs in the Dominion as is held by His Majesty the King in Great Britain. With regard to the relations in executive and in legislative matters between His Majesty's Government in Great Britain and His Majesty's Governments in the Dominions, it was recognised that apart from certain present provisions as to reservation, it was the right of the Government of each Dominion to advise the Crown in all matters relating to its own affairs, and that it would not be in accord with constitutional practice for advice to be tendered to His Majesty by His Government in Great Britain on any matter appertaining to the affairs of a Dominion against the views of the Government of that Dominion. Similarly, it was placed on record that it was the constitutional practice that legislation by the Parliament at Westminster applying to a Dominion would only be passed with the consent of the Dominion concerned.

These principles and declarations afford our starting point to-day. They are part of the recognised constitutional conventions of the members of the Commonwealth. It remains for us to apply them to certain forms and practices which survive from an earlier relationship. In some instances these survivals constitute a serious restriction on the power of our parliaments to enact the legislation which they may consider desirable for "the peace, order and good government" of the Dominion. In other cases, they are not directly injurious in practice, but afford grounds for misunderstanding both at home

and abroad, and particularly when they are exaggerated by legists who emphasize the form and overlook the fact. In both cases, we feel it essential to bring old form into harmony with present facts.

We do not under-estimate the technical difficulties of such a readjustment. We believe, however that these difficulties can be overcome, when approached with the common purpose which animates us here of removing all possible sources of friction and misunderstanding. It would be undesirable to restrict in any way the future development of the relations between the members of the Commonwealth through that flexible growth of convention and understanding which has given to the political institutions of Great Britain, and of those communities which have inherited her great traditions, so much of their strength and adaptability. It is merely our task to enquire how best to register and record a stage of growth already attained, and to report our findings for the consideration of our Governments.

The present session of the Committee is, I understand, of a preliminary character for organisation purposes. It does not therefore appear opportune to enter upon an examination of the details of our reference at the moment, and I shall therefore content myself with repeating our deep appreciation of the welcome which we have received from His Majesty's Government in the United Kingdom. . . .

The Conference then discussed the question of procedure.

It was agreed that a verbatim record of future meetings should not be kept, but that the Secretariat should prepare a note giving the general trend of the discussions.

As regards publicity, it was agreed that nothing should be given to the Press from day to day more than a bare record of the fact that the Conference met.

It was decided that the Conference should meet on the following day at 11 A.M. and should continue until 4 P.M., with an hour's interval for luncheon and that the subject for discussion should be the extra-territorial operation of Dominion legislation.

144.

*Extraits du procès-verbal de la Conférence sur la portée  
de la législation des Dominions*

*Extracts from Minutes of the Conference on the Operation  
of Dominion Legislation*

Second Meeting

October 9, 1929

CONFIDENTIAL

. . .

2. LORD PASSFIELD reminded the Conference that it had been agreed on the previous day that their discussion should be initiated with a discussion on the question of the extra-territorial effect of Dominion legislation.

3. MR. LAPOINTE read a statement to the effect that the problem had received much consideration in Canada and that the Canadian Government have throughout taken the view that there is no necessary or inherent reason for a limitation of Dominion legislation to its territorial boundaries, although the position was not altogether clear in view of the doubt to which various decisions of the Courts had given rise. The Canadian Government would welcome a declaration that would leave no ground for ambiguity. It is the desire of the Canadian Government that the Parliament of Canada should have extra-territorial power in relation to the matters within its competence. The Canadian delegation would find difficulty in limiting the scope and the subject-matters of the power in question by the use of the words "for the peace, order and good government of Canada," which might be interpreted when used without the qualifications of Section 91 of the British North America Act to cover matters within the provincial field and might also be interpreted to exclude certain necessary fields of Dominion action, such, for example, as the enforcement of treaty obligations.

4. The use of the term "ancillary to the peace, order and good government" is contrary to the principle of equality. The Courts of the Dominions would be compelled by such a formula to consider the objections to any legislation that was not really ancillary.

5. MR. LAPOINTE would see objection to imposing any restriction upon the classes of persons because he thinks that it would be impossible to restrict extra-territorial legislation to Canadian Nationals, since, *e.g.*, in a case such as conspiracy or smuggling, Canada should have against the citizens of, let us say, the United States, violating Canadian laws, the same power that the United States may have against Canadians violating their laws.

6. In any case, the operation of extra-territorial operation of Canadian laws will be subject to the principles of private international law.

7. MR. J. E. READ, who followed, elaborated the arguments put forward by Mr. Lapointe as supporting the Canadian view that the Dominion Parliament had, at the present time, extra-territorial power. The Canadian Delegation could not accept the view that the decision in MacLeod's case was any authority for the view that the powers of the Dominion Parliament were limited in this respect. In support of this contention he referred to the provisions of Section 91 of the British North America Act and contrasted the powers given by that Section which contained no territorial limitation with the Sections conferring the power on the provincial legislatures, which were, in every case, limited by the words "in the provinces," the sole test of the legality of extra-territorial legislation being, in his view, the same as that for intra-territorial legislation, namely, whether the principal subject matter was, under the distribution of powers, given to the Dominion Parliament or to Provincial Parliaments.

8. He accordingly expressed the view that, even as matters stood, there was every possibility that a final Court would uphold the extra-territorial

power of the Dominions, but he agreed that sufficient doubt existed to make it desirable that declaratory legislation should be passed.

9. With regard to the limitations suggested in Sir William Jowitt's speech, he pointed out that, in view of certain decisions by Canadian Courts, the effect of limiting the extra-territorial power to matters ancillary to the peace, order and good government would be to withhold from the Dominion Parliament the right to make laws on certain substantive matters. He also suggested that these words embodied a double limitation which was unnecessary in view of the provisions of Section 91 of the British North America Act, and would, moreover, give rise to possible difficulties between Dominion and Provincial powers.

10. The limitation would also involve difficulties in dealing with the legislative power in other Sections of the British North America Act which did not include the restriction of peace, order and good government (Section 132 of the British North America Act).

11. He also pointed out difficulties to which any attempt to limit extra-territorial powers to Canadian Nationals would give rise. He referred to the question of implementing treaty obligations, which could not be done effectively if the powers of the Dominion Parliament were less extensive than those of the legislature of the foreign State with whom such treaty had been negotiated. He suggested that any restriction of power was contrary to the underlying principles of the constitutional law and policy of the British Commonwealth, and, moreover, in view of the general opinion held in the Dominion that unrestricted extra-territorial power exists at the present day, any limitation of that power contained in a declaratory act would be a retrograde step.

12. In view of the fact that as a matter of law it was probably impossible to limit powers of the Parliament of Westminster, it was difficult to see how an equality could be reached except on the basis of giving unrestricted power to all Dominion Parliaments. He suggested that the question of the restrictive exercise of this power was a matter of legislative policy, and ought not to be made the subject of a legal limitation.

13. SIR WILLIAM JOWITT stated that, in suggesting that the powers of the Dominion to legislate extra-territorially should be confined to matters ancillary to peace, order and good government, there was never any intention of imposing any limitation, and if the use of the words would have the effect suggested by the Canadian Delegation, they would obviously have to be omitted . . . .

19. After a further exchange of views, LORD PASSFIELD stated that, in his opinion, the conclusion to be drawn was that a change in the present position would render an Act of the Imperial Parliament necessary. This Imperial Act would not prevent the Dominion Legislatures passing a further Act if they wanted, but that, in any case, the Imperial Act was inevitable.



(The meeting then adjourned till 2.15 P.M.)

20. On the resumption Sir W. Jowitt took the chair in Lord Passfield's absence . . . .

25. SIR WILLIAM JOWITT felt that the sense of the Conference was in favour of something on the lines of the draft clause put in by the Canadian Delegation, coupled with a qualification which would make it clear that the grant of Extra-territorial validity to the legislation of a Dominion would not make that legislation law in any part of His Majesty's dominions other than the part enacting the legislation. He suggested, and it was agreed, that a drafting Committee, under Sir Harrison Moore, should draft a declaratory clause on these lines for circulation to all delegations and subsequent discussion by the Conference. The Committee was constituted as follows:

Mr. Read.

Mr. Hearne.

Mr. Van den Heever.

Mr. Stuart King.

The Committee will have before it the three drafts submitted by Mr. Read, Sir Harrison Moore and Mr. McGilligan, which are attached.

26. It was agreed that at this stage any decisions come to on the subject of extra-territorial operation should be entirely without prejudice to the question of Merchant Shipping legislation; and generally that decisions reached on particular subjects should be regarded as provisional until the final stages of the Conference, when the whole field could be surveyed.

27. It was agreed that the next meeting should be on Thursday, the 10th October, at 2 P.M., when the Conference would discuss the question of "Disallowance."

*By Mr. Read*

*Suggested Draft of a Section dealing with Extra-territorial Legislative Power*

It is hereby declared and enacted that an Act of a Dominion Parliament otherwise within the legislative authority of that Parliament, if expressed to operate extra-territorially, shall be valid and have that operation according to its intention.

NOTE.—This suggested draft is submitted on the assumption that a section will be included in a general enactment for the removal of the existing constitutional anomalies, and that such an Act will include an interpretation section defining the words "Dominion Parliament" so as to restrict the words to the central Parliaments of the Dominions, and so as to exclude the provincial and state legislatures . . . .



145.

*Extraits du procès-verbal de la Conférence sur la portée  
de la législation des Dominions*

*Extracts from Minutes of the Conference on the Operation  
of Dominion Legislation*

Third Meeting

October 10, 1929

CONFIDENTIAL

SIR WILLIAM JOWITT said that while in previous times there might have been some use for the power of disallowance, there was no room for the existence of such a power under modern conditions. There was, however, one exception relating to the position under the Colonial Stock Acts, in particular, with regard to stocks already admitted to the lists of trustee securities under the conditions made under those Acts. The main security for the investor seemed to be two-fold:

(1.) That the Government concerned has a sense of honour, and would not, therefore, wish to alter a contract into which it had entered.

(2.) That in any case the Government concerned would have the good sense not by altering contracts, to prejudice its credit for the future.

He suggested that as regards the future, the Treasury might be asked to obtain some other formula as a condition to replace the existing condition relating to disallowance. As regards stocks which had been issued under the present conditions he had no suggestion to make except that the advice of competent financial authorities might be of assistance. Clearly, it would not be possible to alter a contract to the prejudice of the investor.

MR. LAPOINTE indicated that he was satisfied with the position as stated by Sir William Jowitt, both on the main question and also on the special features relating to the Colonial Stock Acts. He thought that a general declaration in the Report of the Conference would meet the case. . . .

It was also pointed out that at the present time the Canadian Provinces were unable to obtain trustee status for their stocks as the formal power of disallowance of Canadian Provincial Acts rested not with the Government of the United Kingdom, but with the Canadian Government. . . .

On the question of the Regulations to be made under the Colonial Stock Acts with regard to future issues, it was suggested that the best course would be to arrange for Dominion representatives to confer with representatives of the United Kingdom Treasury on the subject, and Lord Passfield proposed the following Resolution:

As regards future issues of Dominion stocks, it is desirable that Dominion representatives should confer with representatives of the United Kingdom Treasury as to the conditions which should govern the admission of such issues to the lists of trustee securities in the United Kingdom.

It was agreed that the following would represent their respective delegations in the proposed discussions with the Treasury on the question:

Dr. Skelton;  
 Sir Harrison Moore;  
 Sir J. Parr;  
 Mr. Beyers;  
 Mr. McGilligan.

...

146.

*Extraits du procès-verbal de la Conférence sur la portée  
 de la législation des Dominions*

*Extracts from Minutes of the Conference on the Operation  
 of Dominion Legislation*

Fourth Meeting

October 11, 1929

CONFIDENTIAL

SIR W. JOWITT said that reservation fell into two categories—discretionary and compulsory. The discretionary power, he thought, had already been dealt with satisfactorily in the declarations of the Imperial Conference of 1926 relating to the position of the Governor-General. As regards compulsory reservation, it was necessary to remember that certain provisions of this nature related to Merchant Shipping legislation and had better be left for discussion when the subject of Merchant Shipping legislation came under general discussion.

DR. SKELTON said that, as regards the discretionary power of reservation he agreed with the Attorney-General. Since the Governor-General is now the representative of the Crown and not in any sense the representative of the Government of the United Kingdom, any power of reservation that remained under this head was not inconsistent with equality of status. The Governor-General might, according to Section 55 of the British North America Act, act on his own discretion, but this power was subject, as in parallel cases in the United Kingdom, to the operation of internal conventions. So far as obligatory reservation was concerned, there was no provision requiring reservation in the Canadian Constitution. There were certain specific powers contained in Imperial Statutes, *e.g.*, the Colonial Courts of Admiralty Act and The Merchant Shipping Acts, and it was most desirable that these provisions should be expressly repealed or that power should be given to the Canadian Parliament to repeal them. In either case legislation by the Parliament at Westminster would be necessary . . . .

A general discussion followed on the question whether it was necessary or desirable to retain a power of reservation to be exercised only on the advice of Ministers of the Dominion concerned in order to afford an opportunity for

consultation between all the interested parties within the British Commonwealth before the legislation became law. The representatives of Canada, South Africa and the Irish Free State were generally of opinion that this question could be dealt with apart altogether from the power of reservation. Previous consultation between the Governments concerned, the passage of the legislation, subject to a suspending clause, or the repeal or amendment of legislation which was proved to be inconvenient to some other Dominion or to the United Kingdom would meet the case.

DR. SKELTON suggested that it would also be possible to deal with this question if the Ministers of the Dominion whose Parliament had passed the legislation in question themselves advised the Governor-General to withhold his assent . . . .

LORD PASSFIELD said that he thought it should be considered whether, in abolishing statutory provisions relating to reservation either by Dominion legislation or by United Kingdom legislation, there might not be a possibility of reviving a general power of reservation derived from the Prerogative.

After some further discussion on these points it was agreed that the question should be remitted to the Drafting Committee under the Chairmanship of Sir Harrison Moore in order that they might prepare a draft on the lines of Sir Harrison Moore's suggestion, with an addition to cover the special cases of Canada and New Zealand.

It was agreed that Mr. Raymond should be added to the Drafting Committee . . . .

147.

*Extraits du procès-verbal de la Conférence sur la portée  
de la législation des Dominions*

*Extracts from Minutes of the Conference on the Operation  
of Dominion Legislation*

Fifth Meeting

October 15, 1929

CONFIDENTIAL

...

SIR WILLIAM JOWITT, in opening the discussion on the Colonial Laws Validity Act, suggested that the first point to consider was the method of approaching the subject. He suggested that the first thing to discuss was the principles underlying the Act, although he emphasized that the question of the form, in which any conclusions the Conference might reach should be embodied, was a matter of great importance. Any such Statute should express its origin in the free-will of a Commonwealth of free Peoples. He suggested that an examination of the subject might disclose that there were three categories of matters. On some of these, he suggested, it would not be necessary to make any provision at all, as they would, on examination, prove to be clearly

matters of domestic concern to the individual Dominion. In regard to others, there would, he suggested, prove to be a real degree of convenience in maintaining a common code of legislation throughout His Majesty's dominions; with regard to others of fundamental importance to the structure of the British Commonwealth, he suggested that the United Kingdom and the Dominions should give up some of their independent powers by mutual agreement. He suggested accordingly that the matter might be examined from this point of view in order to eliminate at an early stage in the discussion those matters which fell into the first-mentioned category. But it was, of course, purely a matter of convenience whether they started discussing fundamentals or non-essential matters. He urged that some common nucleus of legislation should be retained.

MR. LAPOINTE followed, and made the following statement:

The Colonial Laws Validity Act, with the principle of the legislative supremacy of the Parliament of Great Britain which it embodies, constitutes the most important of the constitutional anomalies with which this Conference has to deal. From the historical point of view, looking back over the circumstances under which the rule of Britain was carried across the seas by settlement and conquest, this legislative supremacy is easy to understand. It is also true, as the Attorney-General pointed out the other day, that the Colonial Laws Validity Act, at the time it was passed, was rightly regarded as an enlargement or assurance of colonial legislative power rather than as a restriction upon it. That time, however, was two generations ago. In 1865 not a single Dominion had come into existence, and the colonies were small and scattered pioneer communities. With the federation of isolated units, and the growth of the Dominions in population and industrial development and in political organization and participation in international affairs, the settlement which then seemed appropriate has come to be recognised as wholly unsuitable to their present-day needs and wishes.

It is now agreed that the vital principle of the British Commonwealth of Nations, the distinguishing factor which alone can ensure the continued success of the greatest experiment in democratic organization ever undertaken, is the full freedom and equality of its parts. That is no finespun theory, but the tested and proved foundation of the Commonwealth to-day. With its gradual acceptance, there developed conventional restrictions upon the use of the legal powers of the British Parliament, and now, following the Imperial Conference of 1926, which gave the most complete recognition of the principle, it is our task to consider how the legal position can be brought into conformity with the changed facts.

It appears to follow that, now this task of legal readjustment has been undertaken, the settlement adopted should be as complete as possible. We should seek to bring the Colonial Laws Validity Act of 1865 into conformity with the conditions of 1929. A half-way revision would have little value, and would not be in conformity with the principle of equality and with the lesson which experience has taught us of the value and unifying power of complete confidence.

Absolute legislative equality could, of course, be attained by a complete recasting of the British and Dominion Constitutions, under which the Parliament at Westminster would give up its sovereignty and accept a redistribution of powers, under which, like the Dominion Parliaments, it would be subject to constitutional limitations. It could also be attained by a complete abdication by the Parliament at Westminster of legislative sovereignty in the Dominions. Under present circumstances either course of action would be obviously impracticable and unnecessary. For practical purposes, the desired end can be attained by the passing of an Act of the Parliament at Westminster which would be binding on its successors and



would constitute a final settlement. Such a statute, amending the Colonial Laws Validity Act, should provide, *inter alia*, that a Dominion Parliament have power to repeal Acts of the Parliament at Westminster in so far as their application to the Dominion is concerned, and that no future enactments of a Dominion Parliament in matters otherwise within its competence be deemed to be void by reason of repugnancy to any enactments of the Parliament at Westminster. Such a statute should make clear the power of a Dominion Parliament to deal with all phases of the royal prerogative. This procedure would make it possible to bring the necessary readjustment into effect gradually. It would not be practicable to repeal at a stroke all the British enactments now applying to the Dominions. So long as the power to take such action was fully recognised, the necessary changes could be made as occasion required in each Dominion.

The question next arises whether it is necessary to retain the legislative supremacy of the Parliament at Westminster for the purpose of securing necessary uniformity throughout the Commonwealth. The first point is whether such legislative uniformity is in fact essential. There may be some considerations of temporary convenience in favour of such a view, but the danger of stereotyping an existing situation indefinitely, the difficulty of securing the assent of seven parliaments to an identical measure, in view of local divergences of interest and point of view, appear to count heavily against committing ourselves to such a principle, which would in practice prove as irksome to Great Britain as to any Dominion. The only field in which the necessity appears clearly established is as regards the succession to the Throne. As regards this field, again, it does not follow that the most suitable method of attaining the desired uniformity would be by the continued exercise of the supreme powers of the Parliament at Westminster. The requirement of concurrent action by all the Commonwealth nations for any changes in the present provision as to succession would appear to meet the needs of the case in a way more in conformity with equality and less subject to misunderstanding at home and abroad.

There are other instances in which reciprocal or uniform legislation would be desirable, but these cases can be fully met by co-ordinated but independent legislation if previous consultations have resulted in an agreement for such action.

The necessity under present conditions of effecting amendments to the Canadian Constitution through a statute of the Parliament at Westminster requires special consideration. It is over sixty years since the British North America Act was passed, and it is, perhaps, not surprising that it did not include any provision for formal amendment wholly by Canadian agencies. Thanks to the broad vision of its founders, and thanks to a certain amount of adaptation by the growth of conventions and by judicial interpretation, the Constitution has served its purpose well and the necessity for revision has not been frequent. The time is now coming, however, when it will be necessary to make definite provisions to this end in place of the present vague and disputed procedure preliminary to the confirming action of the Parliament at Westminster.

At the Dominion-Provincial Conference of 1927 I proposed a method of amendment. Further time will be required for consideration of this important question. We must have recourse to the British Parliament for any amendments desired in the meantime, and for the enactment eventually of any procedure decided upon for future revision through Canadian agencies. Once that action is taken, however, it will no longer be necessary to impose upon the British Parliament the task of participating in any way in the future amendment of the Canadian Constitution.

...

LORD PASSFIELD expressed the view that an Imperial Statute was necessary to deal with the principles underlying the Colonial Laws Validity Act, and



that it was desirable that the Conference should proceed to discuss the subject-matter with which any such Statute would deal and try to agree on the substance of what was wanted. He stated that so far as the British Government was concerned no legislation would be promoted until after the next Imperial Conference. He pointed out that the Report of 1926 assumed as one of the principles that there should be one organ capable of legislating for the whole British Commonwealth after consultation and with the consent of its constituent members, and said that this possibility should not be ruled out altogether. He suggested that the Conference should now proceed to a detailed discussion of the various Acts affected.

SIR WILLIAM JOWITT, in answer to a question by Mr. Read, said that his idea was that any legislation by the Parliament at Westminster should not repeal any particular Act, but should make it plain that the Dominion Parliaments had complete power to repeal the Acts for themselves if they thought fit. This view was generally accepted. It was agreed that the effect of the repeal of the Colonial Laws Validity Act on existing Dominion Statutes would probably have to be dealt with in any legislation promoted for this purpose.

It was agreed that the three categories should for purposes of discussion be defined as follows:

(1.) Laws fundamental to the structure of the British Commonwealth.

(2.) Laws respecting matter in which uniformity and general applicability throughout the Commonwealth was very desirable on grounds of convenience.

(3.) Laws respecting matters with regard to which special provisions for securing uniformity are unnecessary.

The Conference then proceeded to discuss particular Acts which, in the view of Sir William Jowitt, fell into the third category, and it was agreed that the following Statutes did, in fact, fall into that group:

The British Law Ascertainment Act, 1859.

The Foreign Law Ascertainment Act, 1861.

The Evidence by Commission Acts, 1859 and 1885.

The Foreign Tribunals Evidence Act, 1856.

The Evidence Act, 1851.

The Bankruptcy Acts, 1914 and 1926.

The Companies Acts.

...

SIR WILLIAM JOWITT gave as his opinion that the Constitution of the Commonwealth of Nations did not necessarily depend on the inviolability of any law in category 2, but he thought that the Conference would agree that, as a matter of practical utility, it was of very great importance to have a common

code on certain matters, and this might possibly be achieved by maintaining the present state of the law, of course on the understanding that the power of the Dominion to alter it would be unquestionable.

He therefore suggested, and it was generally agreed, that legislation on the following subjects would properly be placed within category 2:

- (a.) Fugitive Offenders.
- (b.) Extradition.
- (c.) Colonial Prisoners' Removal Act.

...

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Sixth Meeting

October 16, 1929

CONFIDENTIAL

In the absence of Lord Passfield, Sir William Jowitt took the Chair.

He opened the discussion by recapitulating the three categories of matters which had to be considered with reference to the Colonial Laws Validity Act. These categories were:

- (1.) Laws fundamental to the structure of the British Commonwealth.
- (2.) Laws respecting matters in which uniformity and general applicability throughout the Commonwealth was very desirable on grounds of convenience.
- (3.) Laws respecting matters with regard to which special provisions for securing uniformity are unnecessary.

He proposed that the Conference should now consider the matters included in category 1, such as the law relating to the Crown and the Succession to the Throne, the armed forces of the Crown and legislation relating to the Navy (particularly the law of prize).

The various delegations expressed their views with regard to the law relating to the position of the Crown. It was generally agreed that the question was fundamental; but that it was in a class by itself and should not be considered in connection with the other matters falling under category 1. If any recommendation were made by the Conference on this head it should be dealt with as a separate and distinct subject. The question was left for further discussion at a later stage between the heads of the various delegations.

The Conference then proceeded to discuss the question of legislation relating to the armed forces of the Crown.

SIR WILLIAM JOWITT suggested that the Conference should agree that the present rules of international law relating to the internal discipline of forces present in the territory of another country should be applied to the forces of the Crown (including ships) when present in the territory of another part of the Commonwealth of Nations. He proposed that provision to this effect should be inserted in the Act of the Parliament at Westminster which would be necessary; in reply to questions, he explained that the same provision could well appear in Dominion Statutes, but he contemplated that it would not be subject to repeal by the Dominion Parliament nor would it be repealed by the Parliament at Westminster without the consent of all the parties concerned.

MR. SKELTON thought that this proposal went some way towards setting up a federal organ or organs legislating for the whole of the Empire. He thought the situation would be better met by leaving it to each Government to change the law if it wished, but it should be pointed out to each Government that the advantages of uniformity in this matter were very great, and provision should be made for consultation, and, it might be anticipated, agreement, before any legislation on the subject was passed by any Parliament. . . .

During further discussion on the question how uniformity of legislation on this subject should be maintained, it was pointed out that on Sir William Jowitt's proposal it would be maintained, *inter alia*, by retaining for this purpose the paramountcy of legislation by the Parliament at Westminster. In the view of the Canadian, South African and Irish Free State representatives, this result could better be achieved by inter-Imperial multilateral agreement; implemented by legislation by all the parties concerned. This, in their opinion, would in practice be as effective as paramount legislation by the Parliament at Westminster.

It was pointed out that certain of the Dominions would not wish to feel themselves bound indefinitely by any rule now agreed upon, and for this reason they would prefer that the legislation governing the question in each Dominion should be legislation of that Dominion implementing an agreement covering a stated period of years.

SIR WILLIAM JOWITT said that he thought the British Government would be prepared to consider the limitation of the period during which any agreement should run if this point were pressed.

SIR HARRISON MOORE thought that the principle of a limited period might prove to be of value generally in regard to the matters which the Conference was discussing.

At this stage the question was deferred for further informal discussion.

SIR MAURICE GWYER, opening the discussion on the question of prize law, said that prize and Navy law generally occupied a special position, and did not fit in easily with the other topics of discussion. The question of prize

became important only in the event of war. If war arose, the Naval Forces would be conducting a single war and not seven wars, since in present circumstances the Naval defence of the Empire must depend in the main upon the Royal Navy which, in practice and in law, was subject to the Parliament and Executive of the United Kingdom. The operations of the Navy in regard to prize would be gravely hampered, if not made impossible, if captures brought in for adjudication might fall to be dealt with under different systems of prize law in different ports. In the considered opinion of the Admiralty and of the British Government, prize law must be single and indivisible. If all the Dominions had the power to legislate on this subject, there would be some possibility of divergence of legislation. For practical reasons, it seemed essential for the British Parliament only to legislate on this subject, since such legislation would, in fact, govern the powers and duties of the Royal Navy in war.

Prize Courts purported to administer international and not municipal law, but municipal law was not wholly excluded, since Prize Courts must obey Municipal Statutes. International law itself recognised that municipal law or municipal executive acts supplement and explain prize law. For example, it recognised retaliation and left it to the belligerent to decide what method of retaliation he would adopt providing that they were reasonable methods. Other examples were, the contraband list, days of grace, and reprisals.

A further point arose as to the constitution of Prize Courts. At present no Prize Court could be set up except under a Warrant from the Admiralty. Probably this provision was not on the same footing as the question of the unity of prize law and arrangements could possibly be made whereby Courts in the Dominions would derive their jurisdiction from Dominion legislation. It was, however, important that the procedure of the Prize Courts, however constituted, should be uniform.

SIR WILLIAM JOWITT added that the British Government did not, of course, overlook the possibility of a different position arising in years to come in regard to sea law when the main burden of Empire Defence might fall on other shoulders.

MR. READ said that, with regard to the constitution of Prize Courts, he agreed with Sir Maurice Gwyer. He agreed also that uniformity of procedure was of the first importance. In fact, the gravity of the need was itself a guarantee that there would be no divergence of procedure. It was not, therefore, necessary, in his view, to secure this by limiting the legislative power of the Dominions. He also agreed that uniformity of prize law was essential, but there was no suggestion that the Dominion Parliaments should have the power to regulate the proceedings of the Royal Navy, and he thought it unnecessary to take the field of prize altogether away from the scope of Dominion Parliaments. Circumstances might arise in which it would be desirable that the Canadian Parliament should deal with prize law for itself, *e.g.*, in the case where the Canadian Navy was engaged by itself. He added that at present jurisdiction in prize was governed by Royal Prerogative and not by Statute . . . .



There was some further discussion on the question of the position of the Executive in war time in regard to prize matters, and it was pointed out that rapidity of action would very often be essential so that consultation through the ordinary channels would be impossible.

MR. SKELTON, while agreeing that this was the case, thought the machinery could be devised whereby Orders in Council or other executive enactments promulgated by the Government of the United Kingdom, following consultation with the Dominions, possibly through special agencies set up for the war, could be adopted by the Dominion Executives and put into operation so far as the Dominion was concerned under their authority.

It was agreed that further consideration of the points raised was desirable, and that the subject should be further discussed at a later date . . .

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## Seventh Meeting

October 17, 1929

## CONFIDENTIAL

SIR WILLIAM JOWITT drew attention to the Report of the Nationality Committee of the Imperial Conference, 1926, in which the following passage occurred:

Since, however, they attached great importance to the maintenance of uniformity throughout the various parts of the Empire in the law relating to British nationality, they decided to recommend to the Conference that further consideration of the question (that is, the question of nationality of married women) should be postponed pending the Report of the Committee of Experts . . . and, in view of the possibility of an attempt being made to regulate the problems of dual nationality by an international agreement.

In view of this reference to the Report of the Expert Committee, he thought it was clear that the subject would have to come up in some form before the present Conference. The difficulty arose from the very serious pressure brought to bear in this country and, no doubt, in other parts of the Empire from Women's Societies urging that women of British nationality by birth should not lose that nationality on marriage. This demand, however, would give rise to serious practical difficulties, to which it was important that a solution should be found. The ideal would be that every person should have one, and no person should have more than one, nationality; whereas, in view of the present state of nationality law of most countries, the permission to married women to retain their original nationality would give rise to a large number of persons having two nationalities . . .



MR. LAPOINTE agreed that substantial uniformity was necessary, and that no change should be made without consultation. He drew attention to the steps which had been taken to provide in Canada for a special status of a Canadian national, in addition to the general status of a subject of His Majesty. For example, the allied conception of a Canadian citizen was employed to decide whether a British subject had or had not an absolute right to enter Canada.

On the particular question of married women, he noted that, so far as the Dominion as a whole was concerned, there had been considerable development of opinion in Canada in favour of the view that women should have the right to decide whether, on marriage, they would retain their original nationality or not. The Imperial Conference of 1926 left the matter to be considered after the forthcoming International Conference, and he felt that it would be difficult for him to express a view on behalf of Canada in favour of reaching an agreement now as to how the matter should be dealt with. His general view was, that there were anomalies in the existing position, particularly as a result of the United States Law on the subject, and, from that point of view, he thought that Canada would, on the whole, be inclined to favour the change, though she would not be likely to press it strongly . . .

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Ninth Meeting

October 22, 1929

CONFIDENTIAL

SIR WILLIAM JOWITT: The question of merchant shipping was regarded by the Imperial Conference of 1926 as a subject requiring separate consideration, and it was agreed that we should meet—

To consider and report on the principles which should govern in the general interest the practice and legislation relating to merchant shipping in the various parts of the Empire, having regard to the change in constitutional status and general relations which has occurred since existing laws were enacted.

Merchant Shipping raises many of the problems which are already before the Conference, but it raises others also which are special to itself, and it is, moreover, a subject of enormous practical importance. Shipping constitutes one of the main physical links between the different parts of the Empire. It is a very complicated subject, but it is also a very concrete one, and it may be that our discussions on a concrete question of this kind may help us to a solution of some of the other problems before us.

The problem in the case of merchant shipping, as in the other questions, arises from the fact that the law has not moved *pari passu* with the changes

that have taken place in constitutional status and general relations, and our task will be to consider what changes in the law should now be recommended. You will, however, observe that our terms of reference bid us to consider the principles which should govern practice and legislation and remind us that these principles should be to the general interest, *i.e.*, to the interest of all the members of the Commonwealth. . . .

MR. LAPOINTE: The present Merchant Shipping Act of 1894 is substantially, so far as its application to Canada is concerned, a re-enactment of the provisions of the 1854 Act, which antedates the British North America Act by thirteen years.

Under Section 91 of the British North America Act, it was enacted that the exclusive legislative authority of the Parliament of Canada extends to all matters coming within the classes of subjects therein enumerated and including—

#### 10. Navigation and shipping.

At the Navigation Conference held in 1907, Sir Wilfrid Laurier claimed that, under the constitution of Canada our powers to legislate for shipping were plenary and absolute, and subject only to the powers of disallowance, reserved by the British Government.

It must, however, be admitted that the decisions in the courts indicate, although not with absolute certainty, that their opinion is that Imperial statutes, passed both before Confederation and after Confederation, in regard to such matters as shipping and navigation, override the legislation of the Parliament of Canada.

Since 1911 the convention may be considered to have been established that no amendments to the Merchant Shipping Act, or in respect of shipping and navigation, will be made applicable to Canada, and in such Acts as the Maritime Conventions Act, 1911, Merchant Shipping (Convention) Act, 1914, British Ships (Transfer Restrictions) Act, 1915, Merchant Shipping (International Labour Conventions) Act, 1925, the Dominion of Canada is expressly exempted, as are also the other Dominions.

Under the legislation enacted by the Parliament at Westminster before this convention became effective, Canada is dealt with as if it was still a Crown Colony. The legislation of 1854, which was made for the British possessions of that day, is substantially the legislation which is still applicable to Canada.

One concession was made in 1869 (which still exists in Section 736 of the 1894 Act), under which Canada and the other British possessions were authorized to enact legislation to regulate the coasting trade. Such legislation, however, must contain a suspending clause providing that the Act shall not come into operation until His Majesty's pleasure thereon has been publicly signified in the British possession in which it is passed. Moreover, the enactment provided that all British ships (including the ships of any other British possession) should be treated in exactly the same manner as Canadian ships; also, that where by treaty made before 1869 Her Majesty had agreed to grant

to any ships of any foreign State any rights or privileges in respect of the coasting trade of any British possession, those rights and privileges should be enjoyed by those ships for so long as Her Majesty had already agreed or might thereafter agree to grant the same.

The present legal position, as interpreted by the Courts in Canada, may be summarised as follows:

Under enactments passed by the Parliament at Westminster (including the 1894 Act and subsequent Acts passed up to the year 1911), the Parliament of Canada is authorized, under Section 735 of the 1894 Act, subject to approval by His Majesty and proclamation thereof in Canada, to repeal any provisions of the 1894 Act, or amendments, relating to ships registered in Canada, other than those of the third part of the Act relating to emigrant ships. Its authority to pass extra-territorial legislation even in respect to its own ships is doubtful, except possibly where expressly authorized by the 1894 Act, as in Section 264. It has not authority to pass any legislation repugnant to the legislation of the Parliament at Westminster in relation to Canadian registered emigrant ships; nor has it authority to pass legislation repugnant to legislation of the Parliament at Westminster in relation to any ships coming into the harbours or territorial waters of Canada when such ships are registered in other parts of the British Commonwealth of Nations, or are foreign ships.

What we must have in Canada, as a fully self-governing community, is:

(1.) Full and complete legislative authority over Canadian ships, both intra-territorially and extra-territorially. The extra-territorial legislation would, of course only operate in places outside Canada, subject to local law.

(2.) All ships, when in the territorial waters of Canada, must be subject to the laws of Canada. The Parliament of Canada should have complete and unfettered authority to enact and enforce laws in respect to all ships when in Canadian waters.

(3.) Authority to pass legislation which would be enforceable by Canadian Courts against foreign ships, or ships belonging to other members of the British Commonwealth of Nations, even when outside Canadian territorial waters, in order to enable us to perform agreements with the Governments concerned, for instance, enactments making our safety at sea regulations, and legislation incidental thereto, applicable, with the consent of such Government, to ships of that Government on the high seas, such as is contained in Section 424 of the Merchant Shipping Act, 1894.

The suggestion which we make is that, instead of the restricted repeal power contained in Sections 735 and 736, which derogate so completely from the position of Canada as an autonomous community, the Parliament of Canada should be given the full and complete power to repeal, as and when desired, the whole or any part, or section, of the existing legislation in respect to navigation and shipping passed by the Parliament at Westminster which is now applicable to Canada. With such power of repeal, together with the repeal of the Colonial Laws Validity Act and the provisions which we have

proposed to be substituted for that Act, and the clarifying of the position of the Parliament of Canada in respect to extra-territorial jurisdiction, the Parliament of Canada would then be free and its authority plenary to enact legislation in relation to navigation and shipping, under the authority therefor contained in its constitution.

This Sub-Conference has been invited by the Imperial Conference of 1926 to consider and report on the principles which should govern, in the general interest, the practice and legislation relating to Merchant Shipping in the various portions of the Empire, having regard to the change in constitutional status and general relations which has occurred since the existing laws were enacted. What we desire to have settled is the principle that the authority of the Parliament of Canada, in relation to shipping and navigation, is complete, plenary and absolute, with power to repeal existing repugnant legislation. When this is declared by the Parliament at Westminster it is quite probable, in respect to some matters covered by the existing legislation, that Canada would not desire, at least in the immediate future to make any change.

We recognize that there is a large range of shipping legislation within which uniformity is highly desirable. Canada would always be prepared to sit around the table with representatives of other members of the Commonwealth in an endeavour to agree upon model sections covering these phases of shipping legislation. We suggest that, while the legal situation in respect to status should be cleared up as soon as possible, the members of the Commonwealth might agree to endeavour to work out together model sections which would be enacted by all the members so as to provide both for uniformity and reciprocal legislation in so far as the same is necessary or advisable. The way to uniformity has already been clearly indicated in some matters by international conferences, followed by legislation, such as the Maritime Conventions Act and the Carriage of Goods by Sea Act. During the present year an important conference was held in London to settle uniform provisions for safety at sea. Another Committee is endeavouring to settle provisions in respect to mortgages and liens.

Canada has been represented at the various international conferences held during recent years to promote uniform legislation on shipping matters, but serious doubts exist as to the authority of the Parliament of Canada validly to put into force in Canada certain portions of the shipping and Admiralty Court legislation agreed to be made uniform by the parties to these conventions because the authority of the Parliament of Canada is not considered to be plenary.

Apart from the constitutional questions involved, the legal situation in Canada is quite embarrassing and confusing and calls for immediate remedy. This situation can be appreciated when the fact is kept in mind that a considerable body of legislation applicable to Canada was enacted by the Parliament at Westminster between the years 1854 and 1911, and that what the Canadian Parliament is required to do since 1911, when legislation by the Parliament at Westminster ceased, is to tie into this existing legislation certain modifications and additions agreed upon from time to time at international



conferences or otherwise required. This it must do, avoiding repugnancy, and avoiding also the fields of legislation into which the Parliament of Canada cannot enter by reason of restrictive provisions in such Acts as the Colonial Courts of Admiralty Act, 1890. It is obvious that this is an impossible task. Our Maritime Conventions Act (which reproduced the Act in England) has been attacked on what we are advised are substantial grounds as being *ultra vires*. If an international agreement is made as to uniformity in the law as to mortgages and liens on ships, it may be impossible for the Parliament of Canada to enact legislation fully implementing the agreement even in respect to Canadian ships, as this now appears to be a field at least partially, if not wholly, reserved. The safety at sea regulations, when finally agreed upon by the International Conference cannot be made fully applicable by the Parliament of Canada in Canadian harbours and waters, as under Section 418 of the 1894 Act the field of jurisdiction relating to foreign ships when in Canadian waters in respect to safety regulations is reserved to the Parliament at Westminster.

The legal situation might not be so serious if the legislation since 1911, such as the Maritime Conventions Act, in addition to containing a section to the effect that its provisions did not extend to the Dominion of Canada, also gave the necessary corollary authority to the Parliament of Canada to repeal any existing legislation of the Parliament at Westminster, and thus enable the Parliament of Canada validly to enact its own legislation on the same subject-matter. This, however, was certainly not done in express terms, and it is somewhat difficult to construe the proviso that the Act should not extend to the Dominions as impliedly giving a power of repeal to the Dominions.

Both the constitutional status and the legal situation should be satisfactorily cleared so that the Parliament of Canada will have as full and complete authority as the Parliament at Westminster validly to enact such legislation as it deems advisable in the interest of Canada and to repeal any repugnant legislation of the Parliament at Westminster . . . .

After a general discussion on the further proceedings on merchant shipping, it was decided to circulate the speeches that had been made during the afternoon as far as possible in full, and to proceed with the points which Sir William Jowitt had covered in his opening remarks. These are: (1) the status of British ships; (2) the desirability of working more or less to common standards; (3) extra-territoriality—each Dominion should have complete power as regards ships registered in that Dominion; (4) each Dominion should agree that it will not legislate extra-territorially with regard to ships registered in another part of the Commonwealth without the consent of that part; (5) the law of the country of registration should follow the ship in so far as regards internal discipline (or the economy of the ship); (5)(a) the power of a Dominion to legislate as regards any ship when in its waters; (6) within each jurisdiction it should be agreed that all British ships should be treated alike, and given “national” and “most-favoured-nation” treatment; (7) Colonial Courts of Admiralty Act. There would be full liberty to add to these points.



It was decided to discuss points (3), (4), (5) and (5)(a) at the next meeting. . . .

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Tenth Meeting

October 23, 1929

CONFIDENTIAL

SIR WILLIAM JOWITT said that the first points for discussion were that the legislature of each part should have the power (a) to deal with its own ships extra-territorially and (b) to deal in its own waters with all ships, but no Dominion should legislate extra-territorially with regard to ships of other parts without the consent of the latter. He thought that as general principles they would be acceptable to all.

MR. LAPOINTE thought that Sir William Jowitt's two suggestions were acceptable. . . .

A general discussion ensued on the question of regulations of this sort, including regulations relating to wireless and safety of life at sea generally, and reference was made to the tendency towards world-wide standards in these matters by international convention. It was recognised that each Dominion might make its own regulations with respect to matters of this kind, provided that they were made applicable to all ships, British and foreign, coming into their ports. . . .

SIR WILLIAM JOWITT suggested that the Conference should take up the consideration of the question of the jurisdiction of Colonial Courts of Admiralty.

MR. BURCHELL said:

At the present time Admiralty Courts in Canada are wholly controlled by the provisions of the Colonial Courts of Admiralty Act, 1890, passed by the Parliament at Westminster. This Act provides that the Legislature of any British possession might, by any colonial law, declare any court of unlimited civil jurisdiction in that possession to be a Court of Admiralty and that the jurisdiction of the Court so designated should be the same as the Admiralty jurisdiction of the High Court in England, whether existing by virtue of any statute or otherwise. The Act further provided that any colonial law "shall not confer any jurisdiction which is not by this Act conferred upon a Colonial Court of Admiralty." If any British possession failed or neglected to designate a Court within the time limited by the Act, all Courts of unlimited civil jurisdiction in that possession would become invested with

Admiralty jurisdiction. The evident intention was that the provisions of the Act should cover the whole field of Admiralty jurisdiction to the exclusion of any legislation by a Dominion.

Any colonial law made in pursuance of the Act or affecting the Admiralty Courts or practice or procedure therein, unless previously approved, must either be reserved or contain a suspending clause providing that such law shall not come into operation until His Majesty's pleasure has been publicly signified.

In the year 1891 the Parliament of Canada adopted the provisions of the Colonial Courts of Admiralty Act, and under the Canadian Admiralty Act, 1891, the Exchequer Court of Canada was designated by the Parliament of Canada as the Court in Canada which should possess the Admiralty jurisdiction conferred by the Colonial Courts of Admiralty Act.

The judges of the Exchequer Court of Canada have authority to make or amend rules of procedure for a Canadian Admiralty Court, but these rules under the provisions of the Canadian Admiralty Act are first submitted to the Canadian Government for approval, and under the provisions of the Colonial Courts of Admiralty Act must receive the approval of His Majesty in Council before coming into force. His Majesty may, however, in approving rules, provide that in respect to matters of detail or of local concern further approval is not necessary in case of variation, revocation or addition to the rules.

If the intention of the Colonial Courts of Admiralty Act, 1890, was to keep uniform the jurisdiction in the various Admiralty Courts throughout the British Empire, namely, the same as the Admiralty jurisdiction of the High Court in England, that object was not attained, as under the decision in the *Woron Case* (1927), A.C. 906, the jurisdiction of a Canadian Admiralty Court was held by the Judicial Committee to be only the same jurisdiction as the Admiralty jurisdiction possessed by the High Court in England in 1890. Increased jurisdiction in relation to stevedoring contracts and also in relation to breach of charter party, or damage claimed in respect to carriage of goods by sea, has been given to the Court in England by enactments of the Parliament at Westminster since the year 1890, but under the *Woron Case* this jurisdiction does not apply to Canada. Increased jurisdiction was also obtained by the Admiralty Court in England under the Maritime Conventions Act, 1911, which Act, however, was expressly stated not to extend to Canada.

There is serious doubt as to the authority of the Parliament of Canada to increase the jurisdiction of the Admiralty Courts in Canada, because of the words contained in Section 3 of the Colonial Courts of Admiralty Act, 1890: "provided that any such Colonial law shall not confer any jurisdiction which is not by this Act conferred upon a Colonial Court of Admiralty." Apparently increased jurisdiction can only be obtained for a Canadian Admiralty Court through an enactment of the Parliament at Westminster.

If it were not for the controlling legislation of the Colonial Courts of Admiralty Act, the Parliament of Canada would be free to establish its own Admiralty Courts, and control their jurisdiction and the practice and procedure in them. This has been decided by the Supreme Court of Canada in the case of *Picton* (1879), 4 S.C.R. 468.

It should also be noted that, while in cases originating in other courts there is no appeal from the Supreme Court of Canada to the King in Council, except by special leave of the Judicial Committee, in cases originating in the Admiralty Courts the Judicial Committee have decided that under Section 6 of the Colonial Courts of Admiralty Act there is an appeal as of right from the Supreme Court of

Canada to the Judicial Committee, and the Parliament of Canada has, at the present time, no jurisdiction to abolish this appeal, as it cannot repeal, or pass legislation repugnant to an Act of the Parliament at Westminster.

We desire that, so far as Canada is concerned the Colonial Courts of Admiralty Act should be replaced, either by direct enactment of the Parliament at Westminster, or possibly the preferable way—by authorising the Parliament of Canada to repeal the Act so far as it extends to Canada. The repealing clause could then be inserted in the Act to be passed by the Parliament of Canada, creating its own Admiralty Courts, so that the present Courts which exist under the Colonial Courts of Admiralty Act, 1890, would disappear at the same time as the Courts established under the Canadian Act would be brought into existence.

As the repeal of the Colonial Courts of Admiralty Act may revive the Royal Prerogative to establish Vice-Admiralty Courts, and under dicta in the *Nadan* case the Royal Prerogative might be considered to exclude the authority of a Dominion legislature to establish its own Admiralty Courts, it would appear to be necessary to have legislation by the British Parliament authorising a Dominion Parliament to abolish or alter the Royal Prerogative in this regard.

It would appear to be desirable to have the jurisdiction and the general practice and procedure uniform in all Admiralty Courts in the British Commonwealth of Nations. It is suggested that this should be arranged by conference agreement from time to time in so far as it is possible to attain uniformity. Uniformity, however, would not be necessary in legislation relating to matters of purely local or domestic interest, or in respect to actions against ships registered in the Dominion concerned or persons domiciled therein; or the practice or procedure in such actions.

Under the provisions of the Colonial Courts of Admiralty Act and the Prize Court Act, 1894, jurisdiction in relation to prize may be exercised by a Colonial Court of Admiralty provided such court is especially authorised thereto by His Majesty or the Admiralty. If the Dominion of Canada or any other Dominion established its own Admiralty Courts they could also be authorized to exercise jurisdiction in prize under proper instruction on warrants to be issued from time to time when deemed necessary or advisable.

...

SIR WILLIAM JOWITT thought it was undesirable that there should be diversity of law. The rights as to proceedings *in rem* should be the same everywhere, and this applies also to the protection of maritime liens.

After some further discussion of the question of maritime liens, it was agreed that the matter was one for a special Conference.

SIR WILLIAM JOWITT said that before anything is done by any Government there should be an endeavour to get a uniform system of law.

It was then decided that a sub-committee should be set up to deal with the points of merchant shipping which have so far been considered, and to deal with others which will probably be remitted.

It was agreed that Mr. Burchell should preside over the Committee, of which the membership would be: Sir Charles Hipwood, Sir Thomas Barnes, Mr. Hawken, Sir W. Harrison Moore, Mr. Raymond, Mr. Van den Heever, Mr. Deegan, Mr. Smyth and Mr. Wright...

152.

*Extraits du procès-verbal de la Conférence sur la portée  
de la législation des Dominions*

*Extracts from Minutes of the Conference on the Operation  
of Dominion Legislation*

Eleventh Meeting

October 24, 1929

CONFIDENTIAL

SIR WILLIAM JOWITT said that the first subject for consideration is the ownership of British ships. He thought it essential that there should be a common code as to the qualification to own a British ship. The present qualification is set out in Section I of the Merchant Shipping Act, 1894, which provides that the following may own a British ship:

(a) Natural-born British subjects;

(b) Persons naturalized by or in pursuance of an Act of Parliament of the United Kingdom, or by or in pursuance of an Act or ordinance of the proper legislative authority in a British possession;

(c) Persons made denizens by letters of denization; and

(d) Bodies corporate established under and subject to the laws of some part of Her Majesty's dominions and having their principal place of business in those dominions.

He thought that the last category was open to criticism, as there is nothing to prevent the shareholders of a company all being foreigners. During the war attempts were made to prevent shares in controlling companies being held by aliens, but to do this now would raise complications. The main requirement seems to be that of a common code throughout the Empire.

MR. LAPOINTE said that under the system of centralized control of merchant shipping hitherto prevailing, it has in the main been the task of the British Parliament to lay down standards of safety, qualifications for registry, &c. With the substitution of a system more in conformity with the distinct needs and national aspirations of the Dominions, whereby the Parliament of each of the nations of the Commonwealth will legislate in regard to its own ships, and provide for administration by its own executive authorities, the question arises as to the measure of uniformity or parallel legislation which can be attained under the new system.

It has been agreed by all the members of the Conference to recommend that in the important matter of standards of safety, &c., it is most desirable to work towards uniformity, both internationally and as among the several parts of the British Commonwealth of Nations. It would therefore be possible for a Liverpool shipowner to be assured that when his ship visits Melbourne or Montreal, it would be subject to substantially the same requirements as in its home port. As regards the further question of qualifications of registry, we



are prepared to recommend that the same endeavour should be made to secure uniformity throughout the King's domains in the minimum qualifications required for registry, namely, ownership by a subject or subjects of His Majesty. It appears desirable not to restrict ownership to nationals of the country of registry, but rather to include in the qualifying list all subjects of His Majesty wherever resident. The question of what further requirements should be made to ensure the genuinely national character or control of companies owning ships may require further consideration.

It follows that with the enactment of legislation by each Parliament, some modification in the nomenclature appropriate when all legislation was passed by the British Parliament seems necessary. The term "British ship," notable and honoured designation as it is, does not appear to conform to a system of legislation and registration in each nation of the Commonwealth. The British Commonwealth of Nations is an association, not a federation, nor a political unit. The idea of a single appellation for all ships, without a distinctive name for the vessels of the respective members of the Commonwealth, does not seem in accord with the present situation. In this as in other matters, we wish to co-operate with our fellow-members of the Commonwealth to the fullest extent; we consider it advisable to avert any misunderstanding at home or abroad, by making it clear to the world that we are a self-governing country in matters of shipping as in other matters, and at the same time indicating our association in the Commonwealth. There is the further consideration that the term "British ship" suffers from an ambiguity which is daily increasing. This week we find practically every newspaper in England carrying advertisements of official motor-car associations urging the buying of British cars only, and stating emphatically that a British car is a car made in the British Isles by British workmen from British materials.

It is not easy to find a solution meeting all requirements, but as a basis of discussion, and without in any way contending that it is the best method, some such form of definition as the following might be considered:

"A Canadian ship is a ship registered in Canada, a member of the British Commonwealth of Nations, and owned by

(a) A natural-born subject of His Majesty;

(b) A person naturalised by or in pursuance of an Act of Parliament of Canada, or by or in pursuance of an Act or ordinance of the proper legislative authority of any other member of the British Commonwealth of Nations;

(c) A person made a denizen by letters of denization; and

(d) A body corporate established under and subject to the laws of some part of His Majesty's Dominions, and having its principal place of business in those dominions—

Provided that, &c.



The certificate of registry might be headed:

British Commonwealth of Nations.

Certificate of Registry of a Canadian Ship.

In this way the distinct national character and the participation in the British Commonwealth of Nations would both be indicated.

These suggestions are put forward as a basis of discussion . . . .

SIR WILLIAM JOWITT said that it appeared that there was agreement that there should be a common qualification for a ship of the Commonwealth, and the next point for consideration was whether the present qualification can be improved . . . .

SIR WILLIAM JOWITT, with regard to the suggestion that the term "British" is hardly a suitable nomenclature at the present time, said that the term "British ship" is a trade-mark with considerable goodwill. It was an asset in effecting insurance and, moreover, contracts frequently provided that the carriage of goods should be undertaken by a British ship. The United Kingdom would be reluctant to surrender the benefits derived from using the term "British ship" as a trade-mark, but there would probably be no objection to any Dominion adopting their own nomenclature if they so desired.

LORD PASSFIELD confirmed the Attorney-General's view, but suggested that it would be wise for the Dominions to consult their shipping interests before they made any alteration.

The Conference then proceeded to consider on what the goodwill of the ship depends, whether on standards, the historical factor, the competency of seamen, &c.

SIR WILLIAM JOWITT suggested that if the term "British ship" were kept, a qualification such as "British ship, Canadian registry" would meet Mr. Lapointe's suggestion. He foresaw some difficulty if one Dominion broke away from the common standard and adopted separate nomenclature for its ships. This might prejudicially affect the position of other Dominions to the extent that the assets of the name "British ship" would be retained only for the United Kingdom registered ship . . . .

MR. RAYMOND said that the term "British ship" had two significations. The first was the statutory one conferring certain rights and imposing certain duties on entering Ports within the Empire. The second was the contractual one which arose through the valuable reputation established by a "British ship." This, in the region of insurance, freight and allied matters conferred large privileges, and he was sure New Zealand would be loth to part with them. For these reasons the maintenance of the term "British ship" should not be altered in any way that would lessen the valuable contractual rights which had so arisen. This in his country was exceedingly important, as it wished to have available the best freights and insurance premiums, such as were available to "British ships" alone in the world . . . .

MR. COSTELLO raised the question whether, if the Irish Free State, after circulating their proposed legislation to the United Kingdom and Dominions and coming to an agreement, set up their own registry, an Irish ship so registered [would] then be entitled to all the rights and privileges of a British ship if the name "Irish" were applied to those ships. After some discussion, it was generally agreed that a ship could be called a British ship or an Irish ship at will, and remain within the genus "British ship," provided the agreed qualifications as to registration and standards were maintained. From the point of view of Governments, the ship would be treated as a British ship, but it was possible that commercial interests would not adopt the same standpoint . . .

The question was then discussed as to the desirability for retaining a central register. It was agreed that a common list is not absolutely essential but that it has advantages. The suggestion was made that there might be central registers in each of the Dominions, containing the names and particulars of all British ships, but an objection is the expense and inconvenience of multiplying the number of the copies of entries to be circulated. It was mentioned that the majority of the work would, in any event, fall on the United Kingdom, which owns 94 per cent of the tonnage of the Empire . . .

## 153.

*Extraits du procès-verbal de la Conférence sur la portée  
de la législation des Dominions*

*Extracts from Minutes of the Conference on the Operation  
of Dominion Legislation*

Twelfth Meeting

October 25, 1929

## CONFIDENTIAL

The discussion was resumed on the question of the status and definition of a British ship.

MR. LAPOINTE said that all were agreed that there should be uniform minimum qualifications for admission to registry in all parts of the Empire, and that the description "British ship" should be limited to ships having those qualifications. He thought that there should be something to distinguish the ship, so as to indicate the country of registration, but this should be done in such a way that all would be within the description "British ship." The difficulty which has attended the use of the term "British Empire" at the League of Nations is well known, and the Imperial Conference of 1926 made recommendations to get rid of this difficulty. The same trouble arises in connection with the use of the term "British ship," and for this reason he suggested that the terms to be used should be "British ship, United Kingdom," "British ship, Canada," "British ship, Australia," &c. This and the minimum qualifications for registry and of ownership should be embodied in an agreement which should apply for a fixed time, during which it should not

be altered, but after which alteration would be subject to the desire of any Dominion for a change; or, alternatively, the agreement might be continued until notice is given. . . .

MR. MCGILLIGAN suggested that it might be better to give up the use of the term "British ship," and to use, in future, the nomenclature "United Kingdom ship," "Canadian ship," "Australian ship," &c.

LORD PASSFIELD said that there was nothing to prevent the Irish Free State using the term "Irish ship" if they wanted to.

In reply to Mr. McGilligan as to what the title of the common register should be, SIR WILLIAM JOWITT said that the title might be "Ships of the British Commonwealth of Nations," but with the mention of United Kingdom, Canada, and so on. On this point MR. LAPOINTE remarked that there should be a co-ordinate register rather than a common register, and that the question of the wording of the certificate of registry which is at present used is a matter that the Sub-Committee might consider. The suggestion was put forward that under the Royal Arms the words "British Commonwealth of Nations—Certificate of Registry" might appear. It was observed that the term "British ship" is not used in the certificate, which gives the date and the port of registry. He foresaw the possibility of difficulty in having several names in regard to ships registered in the Colonies, Protectorates, &c. On this point Mr. Lapointe and Lord Passfield agreed that these ships could come under the term United Kingdom and be included with the United Kingdom ships.

The Conference next proceeded to consider Part I of the Merchant Shipping Act, 1894. MR. LAPOINTE asked whether the requirements of Section I are to be regarded as a minimum, or whether it would be open to any part to make the conditions of registry more stringent.

It was agreed that a ship registered under more stringent conditions would still come within the term "British ship." It would, therefore, be open for any part of the British Commonwealth to impose such restrictions, but these would, of course, only apply to admission to the register in that part and not in other parts of the Commonwealth. The Conference proceeded to read, without comments, the Sections relating to the obligation to register British ships, the procedure for registration and the certificate of registry.

LORD PASSFIELD mentioned, in connection with the Sections relating to transfers and transmissions, that provision had been made during the war to restrict the transfer of British ships to aliens, and in the event of another war, it would be desirable that there should be common action in this respect.

MR. HAWKEN, in connection with the difficulty of immediate action on similar lines in each part in this respect, mentioned that the action taken in Canada during the last war was to effect the restriction in the first place by Order in Council under the war legislation.

SIR MAURICE GWYER called attention to the connection between Section 7 (5) of the Act and Section 47, which relates to the name of the ship, and asked where the restrictions on alteration are to be enforced. If the ship is

registered in Canada, the obligation as to maintenance of marks, &c., would follow the ship, but if it never returned to Canadian jurisdiction, it would be necessary for powers of enforcement to be taken by other parts of the Empire on a reciprocal basis.

MR. MCGILLIGAN suggested that this should be considered in connection with the question of the prosecution of offences, shipping enquiries, &c.

It was generally agreed that there should be reciprocal legislation to deal with these matters.

SIR THOMAS BARNES, in answer to a question of Sir Maurice Gwyer as to where and by whom a ship can be forfeited under Section 71, said that this would be a matter for consideration of detailed arrangements when dealing with the prosecution of offences. The point he had in mind was that a ship on the London Register might be within the jurisdiction of a Canadian Court, and the question would arise whether a Canadian Court would have the right to order forfeiture under the United Kingdom Act and, if so, whether forfeiture would be to the Canadian or the United Kingdom Exchequer.

SIR WILLIAM JOWITT said he presumed that the powers given to the Royal Navy to exercise a certain amount of control over British ships by requiring them to hoist their national flag would apply reciprocally so that Dominion Naval vessels would be able to exercise control over United Kingdom registered ships.

MR. HAWKEN said that the object of the control is to enable the Naval Officers to see whether the particular ship is entitled to protection.

MR. MCGILLIGAN suggested that the provisions with regard to National Colours might have to be amended.

The Conference then discussed the existing provisions under which the Admiralty have certain powers in regard to the flag to be flown on a British ship which is not a United Kingdom ship. SIR WILLIAM JOWITT said that the matter was really one of contract, that in return for the protection of the Navy, the Admiralty claimed the right to impose conditions.

SIR WILLIAM HARRISON MOORE said that if that were carried to its logical conclusion, it would mean that though given complete powers of legislation in principle, there would, in fact, be domination by the United Kingdom Government, even in matters relating to such things as the manning of the ship.

DR. SKELTON stated that it was impossible to include in any free agreement a provision enabling the naval or other authorities of one part of the Commonwealth to determine the flag of any other part, and that Canada wanted to be at liberty to change the details of the Red Ensign, such as by putting the Maple Leaf in the flag. This Ensign, which was granted to Canada by warrant under Section 73 (1), should now come under the exclusive authority of the Dominion. He said that he was opposed to the bringing into the idea of agreement that of a pre-eminent power.

MR. LAPOINTE said that anything which admitted the right of the Admiralty to decide what should be the flag of Canada would be objectionable . . .



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*Extraits du procès-verbal de la Conférence sur la portée  
de la législation des Dominions*

*Extracts from Minutes of the Conference on the Operation  
of Dominion Legislation*

Thirteenth Meeting

October 30, 1929

## CONFIDENTIAL

SIR WILLIAM JOWITT opened the proceedings by mentioning that, in addition to Merchant Shipping, the Conference still had to consider the Summary of Provisional Conclusions which had been circulated, the question of a new Empire Court and the question of Dominion constitutions and their alteration.

MR. LAPOINTE also mentioned that further consideration of the question of the Prerogative would be necessary.

The Conference then proceeded to consider the question of national and most-favoured-nation treatment in relation to Merchant Shipping.

SIR WILLIAM JOWITT mentioned the provisions of Sections 735 and 736 of the Merchant Shipping Act, 1894, relating to the power of Dominion legislatures to alter provisions of the Merchant Shipping Act, and to the regulation of coasting trade by Dominion legislatures. Sub-section (a) of Section 736 provides that a Dominion Act or Ordinance relating to the coasting trade shall contain a suspending Clause, and sub-section (b) provides that the Act or Ordinance shall treat all British ships in exactly the same manner as ships of the British Possession in which it is made.

He doubted the competence of this Conference as a Conference of legal experts to deal adequately with the practical questions relating to the treatment of ships, though the reference to the special Sub-Conference on Merchant Shipping is "to consider and report on the principles which should govern in the general interest the practice and legislation relating to Merchant Shipping . . ." He thought that the Conference would not wish to do anything which would prejudice the consideration of these practical matters at the next Imperial Conference, but at the same time that they would all agree as to the necessity of maintaining solidarity throughout the Commonwealth. He suggested that they might agree for a limited number of years to maintain the present position by agreement, presupposing the right of each to alter the present position.

MR. LAPOINTE agreed that the question was one of policy for consideration by the Imperial Conference. He understood that "national treatment" meant that in a particular Dominion the ships of all other parts of the Commonwealth should be treated in the same manner as the ships of that Dominion, but that would not prevent the Dominion from imposing duties on the ships of other parts which they also impose upon their own ships. He saw no objection to Sir William Jowitt's suggestion . . .



The Conference then proceeded to discuss the question of prerogative in relation to the discontinuance of the application of the Colonial Laws Validity Act to the Dominions.

LORD PASSFIELD suggested that the matter of prerogative might continue to be considered under the subjects which it affects. If any member is aware of a subject which has not been considered and which should be considered, it might be brought before the Conference.

He also suggested that the Colonial Laws Validity Act could not be dealt with simply by repeal. It contains matters relating to the Colonies, and also it confers powers upon the Dominions, the repeal of which might be taken to indicate the withdrawal of powers.

MR. BEYERS said that if the Colonial Laws Validity Act is not repealed *in toto* there might be some doubt left as to the powers of the Dominions.

SIR WILLIAM HARRISON MOORE suggested that the manner of procedure should be to pass an Act contradicting Section 2 of the Colonial Laws Validity Act. It would also be necessary to survey the Act closely, as some of its Sections confer powers, and care must be taken to see that these powers are not taken away. It would further be necessary to consider what reservations should be made, and how, for the preservation of the authority of constitutions, or for other matters.

In the course of general discussion on the action required in connection with the Colonial Laws Validity Act, it was agreed that, apart from settling the principle that the limitation on Dominion legislative capacity, whether contained in the Colonial Laws Validity Act or not, is to go, there are certain matters to be considered relating to the form of the Bill to give effect to the principle. This would not be regarded as involving the drafting of a Bill, but rather the production of the outlines of a Bill, which would form the basis of a draft to be prepared by the Parliamentary Draughtsman. Such a Bill would, following the normal procedure, be circulated to the Dominions for their consent before introduction. A Committee of the following members:

Sir Maurice Gwyer,	Mr. Raymond,
Mr. Bushe,	Dr. Bodenstein,
Dr. Skelton,	Mr. Van den Heever,
Mr. Read,	Mr. Costello,
Sir William Harrison Moore,	Mr. Hearne,

was appointed with the following terms of reference:

To consider and report what action in relation to the provisions of the Colonial Laws Validity Act, 1865, and matters ancillary thereto (in so far as they fall within the matters referred to the present Conference) will be necessary to give effect to the principles laid down in the Report of the Inter-Imperial Relations Committee, 1926, and in the conclusions provisionally arrived at by the present Conference.

MR. LAPOINTE agreed to prepare for circulation a memorandum dealing with the points which he wished to raise with regard to prerogative.

It was agreed that all matters relating to Merchant Shipping are now remitted to the Committee on Merchant Shipping . . .

155.

*Extraits du procès-verbal de la Conférence sur la portée  
de la législation des Dominions*

*Extracts from Minutes of the Conference on the Operation  
of Dominion Legislation*

Fourteenth Meeting

October 31, 1929

CONFIDENTIAL

LORD PASSFIELD said that the first subject before the Conference to-day was the question of Dominion Constitutions, and how they would be affected by the removal of the repugnancy provisions of the Colonial Laws Validity Act. . . .

MR. LAPOINTE quoted the statement made by him at the Fifth Meeting, in which he referred to the necessity under present conditions of effecting amendments to the Canadian Constitution through a Statute of the Parliament at Westminster.

He said that he was anxious to secure that the Clauses to be drafted as a result of the present Conference to remove the Limitations imposed by the repugnancy provisions of the Colonial Laws Validity Act should be so framed as to maintain the present position with regard to amendment of the British North America Act. Pending a decision in Canada as to the future mode of amendment of the British North America Act, it would be necessary that the Act should remain as it is, and should be capable of amendment only by an Act of the Parliament at Westminster in conformity with the wishes of Canada. . . .

LORD PASSFIELD observed that, so far as Canada, Australia and New Zealand were concerned, the paramount authority of the Parliament at Westminster would still be necessary in regard to their Constitutions. The point might be met by inserting in the legislation doing away with the repugnancy provisions of the Colonial Laws Validity Act a proviso saving the legislation relating to Dominion Constitutions. . . .

MR. LAPOINTE thought that the repugnancy provisions of the Colonial Laws Validity Act should be repealed altogether, and that the question of retaining the paramount enacting power in the United Kingdom Parliament in relation to Dominion Constitutions should be made the subject of a separate Section, so that it would appear as a temporary exception to the rule. . . .

The Conference agreed that the question should be remitted to Sir Maurice Gwyer's Committee in order that they might submit to the Conference a draft for consideration.

The Conference proceeded to discuss the possibility of establishing an Empire Court.

LORD PASSFIELD said that he was not authorised to do more than to ascertain what measure of agreement was possible with a view to further reference of the matter to the Imperial Conference.

MR. LAPOINTE said that the idea of a Court which would play the same part as between the different Members of the Commonwealth as the Permanent Court of International Justice played in respect of international disputes was attractive. He strongly believed that there must be some body to adjudicate on matters of controversy between the different parts of the Commonwealth. Canada would support a recommendation to the Imperial Conference that some such Court should be set up. He did not know if the Conference was authorised to devise a formal scheme, and he was doubtful whether the Court should deal with anything but inter-governmental matters. . . .

It was agreed that the question should be referred to Sir Maurice Gwyer's Committee, to which Sir Claud Schuster should be added for this purpose. . . .

## 156.

### *Extraits du procès-verbal de la Conférence sur la portée de la législation des Dominions*

### *Extracts from Minutes of the Conference on the Operation of Dominion Legislation*

Fifteenth Meeting

November 13, 1929

#### CONFIDENTIAL

LORD PASSFIELD: I think that the Conference will agree that our very warm thanks are due to Mr. Burchell and his colleagues who have dealt with the various problems before the Merchant Shipping Committee—many of which are of considerable complexity—in so expeditious and practical a manner. And I am sure that the Conference would like me to congratulate Mr. Burchell, especially on his work as Chairman and its successful result.

I have no special comments on the Committee's Report, the adoption of which, for my part, I am fully prepared to recommend. But, if we decide to adopt the Report and to include it as part of the Report of this Conference, I think we shall have to consider whether we ought not to emphasise, in our own Report, some of its more important aspects.

You will notice that the Committee, whilst recommending that the present restrictions on the liberty of the Dominions to legislate on merchant shipping matters, and with regard to Admiralty Courts and Jurisdiction, should be removed, laid the strongest emphasis on the necessity for co-operation, on an equal basis, in various matters on which practical considerations call for concerted action. Thus, I see that the Committee recommend that agreements should be made between the several parts of the British Commonwealth, designed to last for a term of years, on such important matters as—

(a) the common status of ships admitted to registry in any part of the Commonwealth;

(b) the uniform treatment of ships possessing this common status.

The Committee also recommend acceptance of certain principles (upon which, I assume, some kind of formal agreement will also be necessary) on such matters as

(1) limits on the exercise of the power to legislate with extra-territorial operation; and

(2) the law governing the internal discipline of the ship and the agreement with the crew.

I also notice that the Committee contemplate that the duty of drawing up the necessary agreements, and, if possible, the legislation to give effect to them, should be entrusted to representatives of the various Governments.

This question therefore arises. Ought not the Conference to indicate in its Report that, if the recommendations made by the Merchant Shipping Committee prove acceptable to the Governments, it will be highly desirable that the representatives in question should meet at the earliest convenient date.

I take it that we shall all share the view that the agreements at any rate ought to be ready to come into operation concurrently with the other measures necessary for giving effect to the general conclusions of this Conference.

I need only add a word or two as to the form of any legislation by the Parliament at Westminster, which will be necessary in order to give to the Dominions the necessary legislative authority in respect of Merchant Shipping and Courts of Admiralty matters.

As you all know, the general question is now under discussion by Sir Maurice Gwyer's Committee, and I would suggest to the Conference that, assuming we adopt the Report of the Merchant Shipping Committee, we might ask Sir Maurice Gwyer's Committee to consider whether any special provision is desirable, in the new legislation to be passed by the Parliament at Westminster, in order to deal with the Merchant Shipping Acts and the Colonial Courts of Admiralty Act. . . .

157.

*Extraits du procès-verbal de la Conférence sur la portée  
de la législation des Dominions*

*Extracts from Minutes of the Conference on the Operation  
of Dominion Legislation*

Sixteenth Meeting

November 28, 1929

CONFIDENTIAL

LORD PASSFIELD said that the meeting of the Conference was to consider the Report of the Colonial Laws Validity Act Committee, under the chairmanship of Sir Maurice Gwyer. The Committee was appointed on the 30th October, and they were only able to finish their Report a day ago; it was, therefore, possible to appreciate the great care and thoroughness with which they had examined the intricate problems involved.

He suggested that the Conference might wish him, on their behalf, to express their very cordial thanks to Sir Maurice Gwyer and his colleagues. . . .

LORD PASSFIELD then said that the first question before the Conference was whether they were prepared to consider as a whole the Report of the Committee.

MR. BEYERS said that the Report had not reached him in time to enable him to express a final view as to acceptance of the Report, in particular with regard to certain paragraphs. He would, however, be prepared to discuss other parts of the Report.

SIR HARRISON MOORE thought it was necessary that the Report should be discussed as a whole and not piecemeal.

MR. LAPOINTE said that it was of the greatest importance that the Report of the Conference should be unanimous. . . .

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*Extraits du procès-verbal de la Conférence sur la portée  
de la législation des Dominions*

*Extracts from Minutes of the Conference on the Operation  
of Dominion Legislation*

Seventeenth Meeting

December 4, 1929

CONFIDENTIAL

The Draft Report in the form circulated was taken as read and accepted as the Report of the Conference<sup>1</sup> subject to the correction of any verbal or typing errors which might be discovered, but it was agreed that no alteration of

<sup>1</sup> Le Rapport fut publié comme *Command Paper* 3479, en janvier 1930.

<sup>1</sup> The Report of the Conference was published as *Command Paper* 3479, in January 1930.



substance or repair of any possible omissions should be made without the concurrence of all the Governments represented at and concerned in the Conference.

2. It was decided that a statement should be issued to the Press to the effect that a unanimous Report had been made and in accordance with the terms of reference submitted to the respective Governments; and adding that the publication of the Report must be deferred until each Government had had an opportunity of considering the Report. . . .

9. It was agreed that seven copies of the Report should be signed on behalf of the various delegations by the signatories named:

For the Delegation of the United Kingdom of Great Britain and Northern Ireland:

LORD PASSFIELD.

SIR WILLIAM JOWITT.

For the Delegation of the Dominion of Canada:

MR. LAPOINTE.

For the Delegation of the Commonwealth of Australia:

SIR WILLIAM HARRISON MOORE.

For the Delegation of the Dominion of New Zealand:

SIR JAMES PARR.

For the Delegation of the Union of South Africa:

MR. BEYERS.

For the Delegation of the Irish Free State:

MR. MCGILLIGAN.

For the Delegation of the Government of India for such parts of the Report as relate to India:

SIR BASANTA MULICK.

### PARTIE 3/PART 3

### CONFÉRENCE IMPÉRIALE, 1930

### IMPERIAL CONFERENCE, 1930

159.

#### *Le secrétaire aux Dominions au secrétaire d'État aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM

London, July 11, 1929

The following reply was given by the Under Secretary of State for Dominion Affairs in the House of Commons on 10th July in reply to a question addressed to him on the subject of Inter Imperial Trade. Begins.

As indicated in recent speeches of the Lord Privy Seal and of the Chancellor of the Exchequer, His Majesty's Government in the United Kingdom have under their active consideration question of development of Inter Imperial Trade and they naturally welcome indication in statements by Members of His Majesty's Governments in Canada and elsewhere of which reports have reached them that this question is also under examination in other parts of the Empire. How such trade development can best be brought about is clearly a matter which each Government must to a large extent examine for itself. If however there were any general desire for an Imperial Economic Conference to take place before the next Imperial Conference which according to present understanding is due to meet in London next year, His Majesty's Government in the United Kingdom would, as the Chancellor of the Exchequer made clear, gladly participate. Ends.

160.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM A. 31

London, July 20, 1929

CONFIDENTIAL. Following from Prime Minister for your Prime Minister. Begins. His Majesty's Government in the United Kingdom have now been able to give further examination to the question of an Imperial Economic Conference (see Secretary of State's telegram of the 11th July, Circular A.30). Preparations for such a Conference and for the assembly of delegates would clearly take some time. Further work of the Committee on Operation of Dominion Legislation and Sub Conference on Merchant Shipping Legislation which are due to meet in October and about which I hope to telegraph shortly, has to be borne in mind. In all the circumstances it seems doubtful whether we should all be ready for an Economic Conference before the Spring or early Summer of next year. The question also arises for consideration whether it would be more generally convenient that such a Conference should be held in a Dominion or in this country.

The relationship of an Economic Conference, if held, to meeting of Imperial Conference which is due next year also requires consideration. It would probably be difficult for the Prime Minister and the other Ministers concerned to attend both an Economic Conference, whether it were held in a Dominion or in this country in early months of 1930, and an Imperial Conference in the Autumn of 1930, or even Spring of 1931, nor would it seem desirable to postpone a meeting of Imperial Conference, which would normally have been due this year, for any length of time. In the circumstances one alternative which has occurred to us is that it might be possible and desirable to hold the Imperial Conference in two parts, the first which

might meet in a Dominion and the second in London, as soon as possible thereafter, the first concerning itself with economic issues and the second with the questions of foreign policy, defence and political questions generally.

Will you let me have your views regarding the above suggestions and any other alternatives which may occur to you with any comments which you may have as to the most appropriate date. Ends.

161.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM A. 32

London, July 20, 1929

SECRET. Following for Prime Minister from Prime Minister. Begins. Telegram Circular A.31 has been framed with a view to eventual publication, if it is desired. I feel bound to mention, in a separate message, one additional point. If Congress is dealing with the United States tariff in the autumn, as seems likely, it would obviously be most undesirable from a political point of view that an Imperial Conference on economic questions should be meeting at the same time. However, if we can arrange a Conference in the early part of next year we should be in a position to deal with whatever situation may arise in relation to the tariff policy of the United States. Ends.

162.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 134

Ottawa, August 8, 1929

CONFIDENTIAL. Following from Prime Minister for your Prime Minister. Begins.

1. Your telegram Circular A. 31 of 20th July regarding an Imperial Economic Conference received.

2. The advisability of proposing a discussion among representatives of all H.M. Governments on the most effective means of extending inter-imperial trade has been under consideration by our government for some time. We had in mind a conference directed mainly to the question of trade. If, however, it is the prevalent view that such a conference should cover the wider field of a general economic conference we should be prepared to concur.

3. As you are aware from the discussion which I had on 22nd July with the British High Commissioner in Ottawa, the Canadian Government is desirous that this conference should be held in Canada, and has pleasure in conveying a cordial invitation to H.M. Government in the United Kingdom to participate. A similar invitation is being sent to His Majesty's other governments. We are of the opinion that the most suitable date would be in the autumn of this year. If this time is not found generally convenient, it would not be practicable for members of the Canadian Government to attend such a conference, whether held in Canada or elsewhere, until after the ensuing parliamentary session, which opens early in the new year and may continue on into July.

4. As to the relationship of the proposed Economic Conference to the Imperial Conference, we would consider it desirable to keep them distinct if held in different parts of the Commonwealth.

I am sending a similar telegram to H.M. Governments in Australia, South Africa, New Zealand, and Irish Free State. [Ends.]

163.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM 129

London, September 3, 1929

CONFIDENTIAL. Your telegram 8th August, No. 134. Following from Prime Minister for your Prime Minister. Begins. We welcome the suggestion contained in your message of the 8th August for a discussion in Canada on trade questions, and we should be happy to accept the invitation of His Majesty's Government in Canada to participate in general Economic Conference to be held at Ottawa. As regards date you will have gathered from subsequent discussions with Mr. Thomas that the Autumn of this year would not be convenient for us. The alternative suggestion, namely, July next year, would be more suitable from our point of view and would we hope prove generally acceptable to the other Governments.

May I add that as our Parliamentary session here seems likely to last well into July, we should probably be in a better position to send a really representative delegation to Ottawa if opening date in July could be as late as possible in that month, though we should, of course, endeavour to meet the views of the other Governments as regards date.

We gather from correspondence which has taken place that a meeting of the Imperial Conference in London in the Autumn of 1930 (to follow an Economic Conference) would not be convenient either to you or to Australia, while the suggestion made by the Irish Free State, in their despatch of 22nd August, that a meeting should be held in January or February, 1930, would, I fear, be impracticable for us. We regret that in these circumstances

postponement of the Imperial Conference appears inevitable. We should, however, be glad to convene a meeting of the Imperial Conference in London in 1931 at the earliest generally convenient date. This latter suggestion would be in substitution for that originally put forward in my message of 20th July, Circular A.31.

This telegram is being repeated to Australia, New Zealand, Union of South Africa, by telegram, and to Irish Free State and Newfoundland by despatch together with explanatory comment which is being repeated to you. Ends.

164.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM 130

London, September 3, 1929

CONFIDENTIAL. My telegram No. 129, following is text of explanatory comment. Begins. I appreciate that the position is not altogether an easy one, especially for Australia and South Africa, and in particular that the Prime Ministers may not be able to spare the time to attend the two Conferences in succeeding years. On the other hand, communications received from New Zealand and the Irish Free State indicated that both could fall in with proposal for an Economic Conference at Ottawa next Summer.

Plan proposed in my telegram to Mackenzie King seemed most suitable one on the whole, on review of whole situation, and particularly in view of cordial invitation received from Canada. Ends.

165.

*Le premier ministre d'Australie au secrétaire d'État  
aux Affaires extérieures*

*Australian Prime Minister to Secretary of State for External Affairs*

TELEGRAM

Canberra, November 25, 1929

Following for your Prime Minister. Begins. Economic and Imperial Conferences. I understand that His Majesty's Government in the United Kingdom has communicated to you the text of my telegram of the 8th November.<sup>1</sup> I would gladly have supported your suggestion that Economic Conference be held in Canada if it were not for the fact that I feel very strongly that a satisfactory solution of economic and other pressing problems of the Empire can best be achieved by holding the two Conferences concurrently or immedi-

<sup>1</sup> D'après une note au dossier, il n'existe aucune trace du message en question.

<sup>1</sup> A marginal note on the file copy of this telegram indicates that there is "no record" of the message referred to here.



ately following one another and for the further fact that in the case of a remote Dominion like Australia where the time occupied in travelling for purposes of attendance at a Conference overseas is considerably in excess of two months, any arrangement that tends to prolong the absence of Ministers from their own countries and increase the period of interference with the discharge of their parliamentary and other public duties is a matter of very serious concern. The difficulty to which Australia is subjected by reason of her geographical situation will, I am sure, be readily appreciated by you. In the circumstances I should be grateful if you could see your way to associating yourself with representations on subject that I have made to His Majesty's Government in the United Kingdom. [Ends.]

166.

*Le secrétaire d'État aux Affaires extérieures au sous-secrétaire d'État  
aux Affaires extérieures*

*Secretary of State for External Affairs to Under-Secretary of State  
for External Affairs*

TELEGRAM

Ottawa, November 27, 1929

Please give following to Lapointe for his confidential information and guidance: Re Economic and Imperial Conferences. British Government has suggested opportunity be taken of informal discussion with some of Dominion representatives at Expert Conference with a view of seeing whether it would be possible to agree on some joint suggestion with regard to the holding of Economic and Imperial Conferences which could be submitted to all Governments. We have replied saying we see no objection to this. We have, however, also stated our view, which in brief is that while we would welcome Economic Conference in Canada in 1930, we do not wish to embarrass British Government in its relations with other parts Empire, and will therefore gladly endeavour to suit our convenience to whatever arrangements British Government can make with respect to Economic and Imperial Conferences.

We regard Economic Conference in Canada in 1930 and Imperial Conference in London in 1931 as ideal arrangement. If, however, it is felt Economic and Imperial Conferences should be held same year we think they should be held either concurrently or preferably following each other and that place of meeting should be London. We cannot entertain idea of holding Imperial Conference as well as Economic Conference in Canada. Having regard to all circumstances, our colleagues are of view that other Dominions will probably wish to have Economic Conference in London rather than in Canada, in which event we should express our willingness to join with them in this and agree to holding both conferences in London. British Government will probably prefer having both conferences, or certainly Economic Conference, in Canada in 1930. Would suggest your being firm in holding out against an

Imperial Conference in Canada, and also necessity of Economic Conference either here or in England in 1930. Our best position is I think to express our willingness to agree to anything upon which other Dominions and Great Britain agree.

167.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM A. 53

London, December 17, 1929

CONFIDENTIAL. Following from Prime Minister for your Prime Minister. Begins. Informal meetings took place here a few days ago between the Secretary of State for Dominion Affairs and certain of the Dominion representatives attending Conference on Operation of Dominion Legislation with a view to ascertaining whether any proposals could be put forward to Governments concerned for dates for Imperial and Imperial Economic Conferences which would be likely to meet with general acceptance. As result of discussions at these meetings following points emerged:

(i) That it was desirable that next meeting of Imperial Conference should be held in London and if possible before the end of 1930.

(ii) That it would be difficult to have full representatives at Economic Conference if Prime Ministers were not present and it was unlikely that all Prime Ministers would be able to visit both Ottawa and London in 1930.

(iii) Hence it seemed best solution would be to hold both Imperial Conference and Imperial Economic Conference in London in 1930. As to dates it appeared that:

(a) Any date before the end of July, 1930, would be inconvenient to the United Kingdom, Canada, New Zealand and Union of South Africa.

(b) That any date after August would be inconvenient to Australia but that August was unsuitable from the point of view of the United Kingdom owing to the fact that Parliamentary Session here was not likely to terminate until the end of July at the earliest, and that August is holiday season in United Kingdom business circles.

Above considerations pointed to September, 1930, as being most generally convenient date but it had to be remembered that in 1930 the League of Nations Assembly was not expected to start before the 10th September. Some Prime Ministers would almost certainly wish to attend Assembly and it was also probable that important economic subjects would be discussed there. This was likely to prevent economic discussions beginning in London

in advance of Imperial Conference proper. General conclusion reached was that least inconvenient opening date for Imperial and Imperial Economic Conferences would probably be Tuesday, 30th September. Should be glad to know whether this solution generally commends itself. Ends.

168.

*Le secrétaire d'État aux Affaires extérieures au  
secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 6

Ottawa, January 4, 1930

CONFIDENTIAL. Your telegram Circular A. 53 Confidential. Following from Prime Minister for your Prime Minister. Begins. In view of the considerations set forth in your telegram indicating that it would meet the general convenience if the Imperial and Economic Conferences were held simultaneously in London in 1930, His Majesty's Government in Canada is prepared to concur, and while a somewhat later date would have been desirable, will accept the proposal that the Conference or Conferences should begin on September 30. [Ends.]

169.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM A. 15

London, March 24, 1930

CONFIDENTIAL. My telegram 12th February. Circular A. 11. Following from Prime Minister for your Prime Minister. Begins. Proposal that discussion on economic questions should be arranged as part of Agenda of a single Conference has been generally accepted. I propose to take an early opportunity of making an announcement to this effect in Parliament here. Ends.

170.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM A. 61

London, September 22, 1930

The following announcement is being released for publication in the press on Tuesday morning. Begins. It is officially announced that as the Prime Minister of Canada will not be able to reach London until the 30th September, the opening meeting of the Imperial Conference has been deferred until October 1st. Ends.

171.

*Extraits du procès-verbal de la Conférence impériale, 1930**Extracts from Minutes of Imperial Conference, 1930*

First Plenary Session

October 1, 1930

SECRET

## APPOINTMENT OF A CHAIRMAN

MR. BENNETT: Mr. Prime Minister and Members of the Conference—Our first business must be the organisation of this gathering. As the representative of the Senior Dominion, I now move, seconded by Mr. Scullin, that the Rt. Hon. J. Ramsay MacDonald, the Prime Minister of the United Kingdom of Great Britain and Northern Ireland, do take the Chair. Those who are in favour of the motion will signify the same by the uplifted hand.

I declare the Motion carried, and, Mr. Prime Minister, it is my pleasure on behalf of this Conference to ask you to take the Chair; and in doing so I can only record the pleasure it gives me to be the Dominion Representative through whom that request is conveyed . . . .

## STATEMENT BY THE PRIME MINISTER OF CANADA

MR. BENNETT: Mr. Prime Minister and Members of the Conference—I thank you, Sir, for your generous welcome to Great Britain and to the Imperial Conference. The kindness and hospitality of this country to us from overseas is a tradition which we shall always cherish. Whatever else may distinguish one conference from another, they are at least alike in that spirit of Empire fraternity which greets us here.

Tributes to Lord Balfour, Lord Birkenhead and Mr. O'Higgins

I cannot think of the past without remembering that since the last meeting of this body, three of its most illustrious members have gone from amongst you. Those who were privileged to attend the Conference of 1926 have handed on to us who come after the unforgettable story of the zeal and craftsmanship of that great Empire patriot, Lord Balfour.

On the eve of the opening day of this Conference, we have to record the death of another, the Earl of Birkenhead, whose services to the common cause as jurist and as statesman will not soon be forgotten.

The tragic passing of Mr. O'Higgins deprived this country and this Conference of the services of a statesman and patriot whose commanding influence was ever exercised to secure a basis for united effort. I speak, I believe, for all who live beyond these Isles, when I say that your loss is ours as well.

### Value of Imperial Conference

I think it is agreed that, since its first convocation, the value of the Imperial Conference in the effective adjustment of those Empire problems incident to the growth and development of its component parts has steadily increased until it has come to be acknowledged not only as the clearing-house of Empire ideas, but as well the instrument by which constructive Empire action is initiated and sustained.

### Importance of Economic Questions before the Conference

In the past it has had before it problems of vast importance and of supreme intricacy, and has successfully disposed of them. But heretofore, in my view at least, there have never been presented to it for solution questions of such urgency, and of such basic consequence to the economic welfare of the Empire, as those which now arise.

We meet at a time of industrial depression, falling prices, slackening trade, diminishing revenues, and rising unemployment. This situation is world-wide, and while some countries know it only in a modified degree, all are equally concerned in finding a cure for it. Those factors which once controlled the course of international trade and commerce have given place to others. The old order of things has passed. How far the present unhappy state may be regarded as the manifestation of change into a new condition of world affairs, it is perhaps profitless at the moment to enquire. The facts alone concern us. They are plain and they must be faced. We in Canada have faced them, and, through the adequate employment of those means within our own control, have, we believe, provided a way out of our present difficulties.

### Potentialities of Concerted Action

My colleagues and I representing the people of our Dominion, now come to this Conference, not only with a message of affection and goodwill, but in the strong belief that by the concerted action of the whole we can advance the interests of all sections of the Empire. We have a common purpose, and it would be strange indeed if, united to achieve it, there should not follow on our action that same high measure of success which in the days gone by has crowned our joint and steadfast efforts.

I do not propose this morning to develop my considered views as to that scheme of co-operation which holds the surest promise of real and lasting advantage to all the States of Empire. At the appropriate stage in these proceedings I shall offer them to the Conference. At this time I desire only to reaffirm my oft repeated and unchanging conviction that there is no difficulty so great but we can overcome it, no problem so complex but we may solve it, if we have faith and confidence in one another, and the belief that through the growing strength of its parts, there will be assured to the Empire as a whole a new and greater era of prosperity and an ever increasing power to maintain that leadership which it has won by centuries of achievement . . . .



172.

*Extraits des procès-verbaux des réunions des Premiers ministres  
et des Chefs de délégation*

*Extracts from Minutes of Meetings of Prime Ministers  
and Heads of Delegations*

Third Meeting

October 3, 1930

SECRET

...

2. Examination of the Provisional Agenda, on page 4 of Conference Paper E. (30) 18, was then resumed at Part I, Inter-Imperial Relations, Item IV, the System of Communication and Consultation in relation to Foreign Affairs.

The Secretary was instructed to append to the Minutes of the Meeting a summary of the discussion on this subject (see Appendix I).

There was general agreement that the discussion of this subject should be resumed when the Secretary of State for Foreign Affairs could be present . . . .

## APPENDIX I

### THE SYSTEM OF COMMUNICATION AND CONSULTATION IN RELATION TO FOREIGN AFFAIRS

#### *Note of Discussion*

MR. THOMAS, after explaining the general method of procedure in the matters dealt with under the heading "General Conduct of Foreign Policy," as set forth on page 25 of the Summary of Proceedings of the Imperial Conference, 1926, drew attention to two matters which were susceptible of improvement, namely, (1) the inconvenience that was liable to arise if there were serious delay by any Dominion in replying to communications from the United Kingdom, and (2) action by the Dominions to notify the Governments of the United Kingdom and of other Dominions concerned as to their own negotiations. On the first point, he emphasized that in foreign affairs it was often necessary to act with great promptitude, and the Foreign Office might be seriously embarrassed if at the last moment of a negotiation, possibly long after a communication had been addressed to the Dominions concerned, some difficulty were raised.

MR. BENNETT asked if silence was not taken to denote acquiescence.

MR. THOMAS agreed that in certain cases this was possible, but pointed out the embarrassment of an adverse reply being received on the eve of the completion of an agreement.

MR. BENNETT agreed that this was an intolerable condition on which to conduct a foreign policy. He thought there should be some arrangement, such as a time limit, to provide against this . . . .

MR. SCULLIN suggested that the difficulties would be largely overcome if each Dominion maintained in London a liaison officer. The Government of the United Kingdom had to bear the main burden of foreign policy. Often it had to act hurriedly. If each Dominion had a liaison officer in London, who was trusted by both Governments and could keep the Dominion Government informed of the course of events, it would be a great help. Australia had such an official in London, and in the final stages of the Egyptian negotiations, for example, the value of this system had been proved.

MR. MACDONALD said that the Government of the United Kingdom would like not only that the actual decisions reached should be communicated to the Dominions, but that, in addition, the Dominions should understand their doubts and difficulties. It was difficult to communicate these officially. If there were someone for each Dominion corresponding to Major Casey, who had access to officials and could ascertain the pros and cons of a question under consideration by the Government, it would greatly facilitate this object . . . .

MR. BENNETT suggested that there might, perhaps, be meetings once or twice a week of representatives of the Dominions in London, at the Foreign Office. He understood that a plan of this kind had been tried under a previous Administration, and had worked well, but that some of the Dominions did not approve, and the practice had been abandoned.

MR. THOMAS said that he would welcome such an arrangement . . . .

### 173.

*Extraits des procès-verbaux des réunions des Premiers ministres  
et des Chefs de délégation*

*Extracts from Minutes of Meetings of Prime Ministers  
and Heads of Delegations*

Fourth Meeting

October 6, 1930

SECRET

. . . .

5. The discussion was then resumed on the Agenda appended to Imperial Conference Paper E. (30) 18.

THE CHAIRMAN pointed out that the outstanding points were as follows:

- I. Report of Conference on the Operation of Dominion Legislation.
- II. (a) Nationality (including deportation and passports).

In addition, Mr. McGilligan had given notice of his desire to raise the question of the Judicial Committee of the Privy Council. He asked Mr. Bennett if he could explain his position in regard to the Report of the Conference on the Operation of Dominion Legislation.

MR. BENNETT explained his position. He was anxious to accommodate the Imperial Conference as far as possible, but he must have regard to the representations made by the Canadian Provinces, which, as he had already mentioned (P.M. (30) 1), had asked for an opportunity to examine the Report of the Conference of 1929 in order that they might consider its effect on their position. He added that the point raised by Mr. McGilligan in regard to the Judicial Committee of the Privy Council was a particularly difficult one for him, as there existed a right of appeal direct from the Provincial Courts to the Judicial Committee of the Privy Council without need to obtain the permission of the Supreme Court of Canada. . . .

MR. SCULLIN mentioned a number of important points in the Report of 1929 that had not been discussed. He asked whether they were to be sent to a Committee or discussed first on general principles by the Heads of Delegations.

MR. THOMAS said he presumed they would be sent to the Committee, unless anyone wanted to discuss them now.

MR. SCULLIN pointed out that several of the points involved legislation only by the Imperial Parliament.

MR. BENNETT'S difficulty was that some of them involved an alteration in the British North America Act, which was the Canadian Constitution. He raised the point whether, in the view of the other Dominion representatives, legislative effect could be given to the Report in London on the recommendation of the Imperial Conference before the recommendations of the Conference had been referred back to and approved by the Parliaments in the Dominions.

SIR THOMAS SIDEY thought that legislative effect could only be given to the Report if it had been passed by the Dominion legislatures.

MR. FORBES said that the real issue was whether it was sufficient to approve the legislation here in the Imperial Conference, the Delegates giving an undertaking to the Conference that they would pass it, or whether it was necessary, before legislation in London, to have the matter approved by the Dominion Parliaments.

MR. THOMAS said he understood that, before the question had been raised here, it had been assumed that the Statute of Westminster, if approved at the Imperial Conference, would be passed through the United Kingdom Parliament on the strength of an undertaking from the representatives of the Dominion Governments.

MR. BENNETT raised the question whether the Imperial Conference was competent or not to give such approval as to enable the Parliament in London to act. This, of course, was quite apart from the question of the Canadian Provinces. . . .

MR. BENNETT suggested that the Report on Dominion Legislation might be sent to the Committee. When their Report came back, he might have to make his position clear as to legislation, &c.

MR. MCGILLIGAN suggested that that procedure would not lead to a speedy decision. But for the difficulty of the Canadian Delegation, the matter would have been dealt with. It was necessary to know how far that difficulty impeded the task. If it did impede it, what was the position? Would there have to be a fresh Conference after the Canadian Provinces had been consulted? They must know first how far the Canadian reservation carried, how far, in fact, the Canadian Provinces were affected by the Report. He suggested, therefore, that the Report should be gone through from this point of view.

MR. BRENNAN asked if Canada's willingness to send the 1929 Report to the Sankey Committee would not meet Mr. McGilligan's point.

MR. MCGILLIGAN said that, if the Report went to detailed consideration with Mr. Bennett still reserving the right to say at the end that his position did not enable him to adopt it, the situation would be unsatisfactory.

GENERAL HERTZOG pointed out that an examination might show that in one Dominion the legislation could not be passed, whereas for other Dominions it was of great importance. He thought the Committee might try to see how far the position of Canada, as well as of the other Dominions, could be met.

MR. SCULLIN suggested that, if Mr. Bennett would agree, the Report might be taken as the starting-point and referred to Lord Sankey's Committee, which would report back to the present body, everything being understood to be subject to approval by the respective Parliaments. The only reservation, therefore, would be that before a Bill was introduced in London it would have to be submitted to the Dominion Parliaments. He recognised the good work done by the Conference on the Operation of Dominion Legislation, but there might still be points that required some modification.

LORD SANKEY supported this by suggesting that all wanted unity, but that they did not necessarily desire uniformity.

MR. BENNETT recalled that he had already stated his difficulty in participating in the work of the Committee in regard to this Report.

It was agreed—

To remit the Report of the Conference on the Operation of Dominion Legislation to Lord Sankey's Committee for consideration in the light of this discussion.

174.

*Extraits du procès-verbal de la Conférence impériale, 1930**Extracts from Minutes of Imperial Conference, 1930*

October 8, 1930

Second Plenary Session

SECRET

...

## STATEMENT BY THE PRIME MINISTER OF CANADA

MR. BENNETT: Before offering to this Conference the plan which, once effective, will in my opinion make for greater prosperity in all parts of the Empire, I shall briefly state the fiscal policy of the Canadian administration, of which I am the head.

## Fiscal Policy of Canada

The Conservative party of Canada believes in, and employs, the principle of protection of the home producer of agricultural and fabricated products from harmful interference by world competitors. But it is not part of our policy to exclude from our markets foreign goods, so long as their importation does not threaten a reduction in the high standard of living which our citizens enjoy. On the other hand, it is our declared policy to provide for the consumer a cheap market, by stimulating the growth of competing domestic industries to that point of development where they will be able, in fair competition with others beyond our Dominion, to offer to the Canadian public products of like quality and at prices comparable to those prevailing in the larger markets of other countries.

To achieve this result, we are obliged to consider the whole question from the point of view of both consumer and producer, and, through the employment of a flexible tariff, to ensure the proper protection of the one and safeguard from exploitation the other. This result we are on the high road to accomplish. Its accomplishment will mean vigorous industries assured of that minimum scale of production through home consumption, without which their excess products can never find a place in world markets.

In pursuance of this policy, and to meet an economic situation, brought about by world and domestic causes (it is not necessary here to determine their relative responsibility), the Parliament of Canada at a session called for the purpose in September of this year, enacted certain changes in the tariff, designed, in our view, to strengthen the position of the home producer. Certain measures were taken as part of this emergency legislation, to avoid the exploitation of the consumer; and in the good faith and good sense of the Canadian producers we have the necessary assurance of their rigid adherence to these measures.



This policy of the Conservative party has come to be known as the policy of "Canada first." In approaching the economic problems of our Empire I stand four-square behind that policy. And if this Conference is to meet these problems and provide an effective solution of them, it seems to me that my attitude towards my own country will be the attitude of you all towards yours. On no other basis can we hope to effect an enduring agreement of benefit to each one of us. I will determine what my country needs, and, if you do likewise, then we may come together and search out the means by which we can be of mutual assistance in satisfying those needs.

### A Policy of Preference for Empire Goods

I rejoice that the Government of Canada finds, in the Empire scheme I have to propose, the surest promise that its duty to its own country will be fulfilled. For we believe that through the broadening of the home markets of Empire States to Empire products, in preference to the products of foreign countries, every unit of this Empire will benefit. This does not mean, of course, that an attempt should be made to exclude from Empire markets the goods of other countries. We must have—all of us—markets without the Empire, and to make those markets sure, and greater, we must place no insuperable barrier in the road of reciprocal world trade. What it does mean, however, is that we should direct the present flow of trade into more permanent Empire channels by preferring Empire goods to those of other countries. This can be done only in one way—by creating a preference in favour of Empire goods.

We have considered what such a scheme of preference will mean to Canada and to the other parts of Empire, and our conclusion is, that we of the Empire States have within our own control the means to advance the interests of each one of us, by developing a plan of economic co-operation, based on the principle of Empire preferences.

To establish the soundness of this conclusion, I apply the test which most readily suggests itself to me as a Canadian. I shall tell you frankly what it is, for it is clear that no useful agreement will ever be reached until we fully disclose to one another the mainspring of our contemplated action.

The primary concern of Canada to-day is profitably to sell its wheat. We believe that we shall be reaching towards a solution of that problem if we can establish a better market in Great Britain. This market we want, and for it we are willing to pay, by giving in the Canadian market a preference for British goods. You may each, in your own way, apply what tests you choose to determine the value of reciprocal preferences to your own country. I am confident your conclusions will coincide with ours.

And so I propose that we of the British Empire, in our joint and several interests, do subscribe to the principle of an Empire preference, and that we take, without delay, the steps necessary to put it into effective operation.

First, we must approve or reject the principle. I put the question definitely to you, and definitely it should be answered. There is here no room for

compromise and there is no possibility of avoiding the issue. This is a time for plain speaking, and I speak plainly when I say that the day is now at hand when the people of the Empire must decide, once and for all, whether our welfare lies in closer economic union or whether it does not. Delay is hazardous, further discussion of the principle is surely unnecessary. The time for action has come.

Projects other than the one I propose have been placed before you. They have been carefully canvassed by our Delegation, and, while we would avoid anything which might savour of premature condemnation, we are constrained to state that none of them can be accepted by Canada as alternatives at all likely to achieve the purpose we have in mind.

Until this principle is accepted it would be profitless to discuss the application of it in any great detail. I shall, however, outline in a broad way our conception of the manner in which it may be employed, and shall qualify the generality of my proposal by indicating the method of its application.

#### Details of proposed Preference

I offer to the Mother country, and to all the other parts of Empire, a preference in the Canadian market in exchange for a like preference in theirs, based upon the addition of a ten per centum increase in prevailing general tariff, or upon tariffs yet to be created. In the universal acceptance of this offer, and in like proposals and acceptances by all the other parts of Empire, we attain to the ideal of Empire preference.

I amplify and explain this offer in the following ways:

In the first place, the rate I have mentioned cannot be uniformly applied. The basis of the proposal is the adequate protection to industries now existent, or yet to be established. Because of this, we must ensure a certain flexibility in the preferential tariff, having regard to the fundamental need for stability in trade conditions; and must take account of such prevailing preferences as are now higher than the general one I suggest.

It follows, therefore, that this proposed preference should not be considered as a step towards Empire free trade. In our opinion, Empire free trade is neither desirable nor possible, for it would defeat the very purpose we are striving to achieve. All that is helpful in Empire free trade may be secured by Empire preferences. All that is harmful may in this way be avoided.

Again, it is conceivable that this preferential rate should be lower in the case of raw products, or where the Empire supply does not meet the Empire demand. On the other hand, the preference may be increased beyond ten per centum where that rate, in relation to the main tariff, is inadequate to afford Empire goods an appreciable advantage over those of foreign countries. It will also be necessary and proper to determine what Empire agencies may be employed to ensure the most effective operation of the principle. That is a question which at the moment I shall not discuss further than to say that, foremost among these agencies, that of our ocean transport should be looked

upon as the rightful carriers of Empire goods. And I see no reason why, by creating additional preferences on goods so carried between Empire ports, that great service should not be profitably used.

### Proposals to be subjected to Analysis

All these are matters requiring the most careful consideration. Some of them might readily be resolved into difficulties so definite as to defy removal unless the greatest care is taken to anticipate and avoid them. They must, therefore, be subjected to searching analysis by the economists of all the countries concerned. Such analysis will inevitably result in variations in any standard of preference now to be adopted. But whatever modifications may be found necessary, these will not adversely affect—nay, they cannot but make more beneficial and lasting—the broad principle of Empire protection, based on common advantage, and guided in its application by the need to ensure the welfare of the home producer. With proper safeguards to the consumer, such a preference makes possible, in the only way, full employment of the resources of Empire to the advantage of all its parts.

I do not need to point out to you that to enjoy prosperity, a country must be assured of stability in trade conditions. A preference, therefore, which cannot be regarded as enduring is worse than no preference at all. And, to be enduring, it must be predicated upon mutual benefit. A preference on any other basis is manifestly unsound and ephemeral.

Consistent with the fullest inquiry into the application of the principle of an Empire preference, our deliberations must be governed by the time factor. If this change in our economic relationship is to be made, it must be made without undue delay. I would, therefore, propose that this Conference, if it approve the principle, should constitute such committees as may, with the greatest expedition and thoroughness, consider the various questions incident to its operation. As we have here neither the time, nor the machinery necessary, to reach a final conclusion upon all of them, it is apparent that we must employ the technicians of our respective countries to complete the inquiry. And for that purpose I would suggest that committees be set up in each of the countries concerned; and that these committees commence immediately an exhaustive examination of the effect upon their domestic situation of the proposals I have made.

### Suggested Conference at Ottawa

I am satisfied that whatever modifications in the general plan Canada may have to suggest will be ready for submission within a period of six months. I assume that you are all capable of a like measure of expedition. And so I further propose that, when this Economic Conference has had an opportunity profitably to discuss the plan in its various aspects, it do adjourn to meet at Ottawa early next year, as the guests of the Canadian people, and that in the interval, through the instrumentalities I have suggested, full and final reports be prepared for submission to it.

Any Government of which I am the head will be prepared to support the proposal I have made, and, with whatever variations in the general plan may seem advisable, to make it effective by the proper legislation.

We Canadians will continue our consideration of this great question with steadfast earnestness, and will take all means within our power to avoid any conclusions but those most likely to lead to helpful and sustained Empire co-operation. I know that in this the other constituent parts of Empire are like-minded with ourselves, and that to this proposal, and to the anxious deliberations incident to its thorough canvass, they will bring the best will and the most skilful advice. For to you, as to us, it must be plain that we dare not fail. I have said that the time is now at hand when the doctrine of closer Empire economic association must be embraced, if we would not have it slip forever beyond our powers of recall. Once gone it were vain to suppose that lesser existing Empire agreements will long outlive it, and, that being so, the day will come when we must fight in the markets of the Empire the countries of the world, shorn of that advantage which it should be in our individual interest to secure and maintain.

To me that is unthinkable, and I appeal to the national representatives here assembled in conference, to forget, each one, those prejudices which forbid the realization of that Empire building plan by which we all may advance to greater prosperity.

I await your decision with confidence. We have a common purpose. The means by which it may be fulfilled offer themselves in like measure to each one of us. In the days of our past achievements we surely learned that our mutual trust and confidence were not misplaced. With them by us yet, and with faith in the future of our Empire, I cannot but believe that out of our deliberations there will come an enduring scheme of co-operation, based, if you will, upon self-interest, but destined to carry the Empire through all its parts, into an era of commercial supremacy such as it has not heretofore known . . . .

#### Enquiries as to the Policy of Great Britain regarding Preference

MR. BENNETT: Prime Minister, you have submitted two questions for the consideration of the Conference. The question of high policy must be determined by His Majesty's Ministers in Great Britain. There has been a general opinion expressed, a concurrence of opinion, I might almost say a unity of opinion expressed around this board except on the part of His Majesty's Ministers in the United Kingdom. The question of high policy must be settled by them. The Heads of Delegations from other Dominions cannot assist you, Sir, and your Cabinet in settling that question; if we refer this matter now to Committee, obviously the Committee's discussions will be restricted and limited and curtailed because it has not before it any idea as to what the policy that is going to govern it is to be, and until such time as I, for instance, know what the policy is to be, what use is it for me to sit down and discuss figures, not knowing how they are to be applied?



I think in a broad and general way it might be well to afford an opportunity to His Majesty's Ministers, such opportunity as they would like to have, to determine what their course will be in respect of high policy. In so far as the discussion of figures is concerned, all discussions in relation to figures must be carried on, it seems to me, with some regard to the principle which is to govern them afterwards. That is the way in which it appears to me . . . .

MR. RAMSAY MACDONALD: I hope there will be no misunderstanding at all about these suggestions I have made. The position is this. I am sure, if you read all your speeches to-morrow morning together, you will find that, if any Government was to attempt to fit in all the requirements you have asked for, it would not be a very simple declaration of policy that would be required; what I have in my mind, therefore, is this, that an interchange of views on the general situation, on what I call high policy, between the various Heads of Delegations would clarify the general outlook far more than we have been able to clarify it by the extraordinarily interesting and important, what I might call individual, statements that have been made; and in view of the fact that we are all members one of another, I feel that such an exchange of views would be a very valuable preliminary to any statement that was made. That is all that I have in mind, so that if you would agree to that we could have our meeting and finish, I am perfectly certain, in one sitting or two half-day sittings at the very outside; then we shall be in a position to settle down to the actual facts and the realities of the situation which are in front of us. That is what was in my mind.

MR. BENNETT: Prime Minister—so far as meeting with the United Kingdom Delegation is concerned, so far as the Heads of Delegations meeting is concerned, there can be no possible objection to that, but that is predicted upon the assumption that, before anything is done that is worth while, the question of principle as to whether or not we have preferences in this Empire is settled. That must be done, and every delegation except one has expressed the idea that that should be done, that we should have preferences. The question therefore remains for His Majesty's Government in the United Kingdom to determine what its action should be, and I can readily understand, antecedent to that conclusion being arrived at, they would like to discuss the matter with Heads of Delegations. As to that, there is no difficulty, but there can be no worth-while discussion that looks towards a settlement of what for twenty-five years has engaged the attention of Imperial Conferences until the principle is finally settled here by us to apply to the conditions arising in our several countries. I am prepared, of course, to go to the Conference of Heads of Delegations. . . .

### Factors Affecting the Policy of Preference

MR. RAMSAY MACDONALD: No, it is not at all with the idea of having a further dose of figures that I make the suggestion, but let me illustrate the situation by reminding you of two things. First of all, the question of prefer-



ence. Nobody in this country has ever said that while there is any tariff on there will be no preference. The opposite has always been said. But take an illustration of what happens. Steps were taken by our predecessors in what was considered to be the interest of our own country primarily to remove the duty on tea, completely remove it. Quite obviously, under those circumstances, there can be no preference on Empire-grown tea. That is one type of case indicating policy which has to be considered. There is another case. I think it was the Conference of 1923—I have not refreshed my memory about it—which made a provisional agreement of a sort of bargaining character. When it was brought before the House of Commons the House of Commons devised another method of Imperial Preference. That was by setting up the Empire Marketing Board, funds for which were provided by the United Kingdom, and it was to be taken as a sort of *quid pro quo* for the rejected duties. That is another thing that we might exchange views about, and it was my idea that we together, in the closest co-operation and nearer communication of a meeting of the Heads, might exchange views upon the whole of that situation. As soon as that is done, of course, the further suggestion which Mr. Bennett has in his mind would be at once proceeded with, but I think it is all to our advantage that we should have that exchange of views between the Heads of Delegations at 10, Downing Street, rather than have the question debated here from stage to stage in what may be rather a shifting situation. That is what I had in my mind. Certainly my intention would be, if it suits your convenience, to have this conversation to-morrow morning . . . .

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*Extraits des procès-verbaux des réunions des Premiers ministres  
et des Chefs de délégation*

*Extracts from Minutes of Meetings of Prime Ministers  
and Heads of Delegations*

Sixth Meeting

October 9, 1930

SECRET

...

8. The remainder of the meeting was occupied with a discussion on Economic Policy arising out of the discussion in the Plenary Meeting on the previous day. A large part of the discussion was taken up by an exposition by Mr. Ramsay MacDonald and Mr. Snowden of the effect of the proposals made at the previous day's discussion on the fiscal policy of the United Kingdom . . . .

(A note of the discussion is attached as Appendix II to these Minutes.)

9. In the course of the discussion referred to above, MR. MOLONEY drew attention to his remarks on the previous day on the question of the dumping of Russian wheat, &c., and suggested that a Sub-Committee be set up at once to look into the matter . . . .

## APPENDIX II

### *Note of Discussion*

MR. MACDONALD, opening the discussion, said that a number of interesting suggestions had been made at the plenary session of the Conference on the previous day which could not be well discussed further formally. Two Prime Ministers had said that on no account would they consider an Empire Free Trade arrangement. The effect of this was to rule out a Customs Union, such as the Customs Union of the States forming the United States of America. All sorts of intricate points arose out of the suggestions which had been thrown out, and these could only be satisfactorily discussed man to man.

The policy of the United Kingdom had always been free trade, and the United Kingdom Government must reckon with public opinion in this country and take account of the declared policies of the responsible political parties.

The present serious depression in trade made everyone jumpy, and the effects would be very serious if a big change in the fiscal system were carried out and resulted in no substantial improvement.

MR. SNOWDEN said he thought that, before the United Kingdom Government stated their position, it was necessary to have more concrete information as to the proposals put forward on the previous day. His understanding of Mr. Bennett's proposal was that Canada contemplated no reductions in the Canadian preferential and general tariffs, but that, in consideration of the United Kingdom granting a preference to Canadian goods, Mr. Bennett would be prepared to raise the Canadian general tariff rates by some 10 per cent. This would mean no general reduction in the present preferential rates of duty fixed to protect Canadian industry.

Canada wanted a market for her wheat and the other Dominions for their raw materials. The suggestion, as he understood it, was that the United Kingdom should place a tariff on foreign goods and a lower preferential tariff or no duty on goods from the rest of the Empire.

The position of the United Kingdom was different from that of the Dominions. The United Kingdom's existence depended on her external trade, and it could be no part of United Kingdom policy to make a change which would jeopardise a large part of that trade.

MR. BENNETT said that Mr. Snowden had correctly expressed his views. There were a large number of items free of duty in the Canadian tariff, while

in many other items the British preferential rate was 15 per cent. compared with a general rate of 30 per cent. An increase in the general rate of duty of 10 per cent. would thus increase the margin to 18 per cent.

The first question was whether the principle could be accepted. If it could, the next step was to work out the details; if it could not be accepted, he would understand the position.

MR. SNOWDEN said that he did not think the Imperial Conference was a suitable body for working out the details.

He understood that Mr. Bennett's suggestion involved no reduction in the British preferential tariff but an increase in the general tariff. He understood that the general policy of the Dominions was to build up their local industries. In fact, Canada first, the United Kingdom next, and foreign countries last. He said that the Australian and Canadian tariffs on woollen and worsted goods had had disastrous effects in this country. Thus, the Australian duties now varied between 65 per cent. and 90 per cent. and the Canadian between 23 per cent. and 40 per cent. under the British preferential rates. Contrasted with this, Belgium imposed duties of 5 per cent. to 8 per cent., Denmark of 10 per cent., and even in Germany, a highly protectionist country, the rates were in no case more than half the Canadian rates.

MR. SCULLIN said that it should be remembered that Australia admitted £26,000,000 of British goods free of duty while imposing tariffs on similar foreign goods.

MR. SNOWDEN said that preferential tariffs in the Dominions were, in fact, imposed for purposes of protection, and it was the policy of the Dominions to encourage local production. Canada already had very high duties and had recently raised them. Mr. Bennett proposed no reduction in any of the existing tariffs, although these were designed to keep out British goods. Therefore, he did not see that the proposal would help British manufacturers. A widening of the margin between the preferential and general rates by means of an increase in the general rate would be of little practical help to our exporters.

MR. BENNETT said he thought that such a widening of the margin of preference would be of help to our manufacturers. Canada was the fifth most important trading country in the world. She now imported 1,500 million dollars merchandise, of which two-thirds now came from the United States. There was much room here for diversion to the United Kingdom. He thought they might also have to abrogate the commercial Treaty with France. It was important to realise the magnitude of Canada's trade, and he thought that an increase in the general tariff rates of 10 per cent. should divert trade from the United States to this country.

He was anxious that branch houses of British manufacturing firms should establish themselves in Canada. Now there were only about 70 as compared with 700 American firms. Some of them were doing very well, and this should lead to the migration of skilled workers.

MR. SNOWDEN said that, in his opinion, the effect of the 10 per cent. increase in the Canadian general rate would not be to divert trade to the United Kingdom manufacturer. The result would more probably be, firstly, that the United States tariff against Canada would be still further raised, and secondly, that United States firms would establish more branches in Canada . . . .

MR. MACDONALD said that our manufacturers should be urged to play up and to supply the market for such materials, and the question of bringing pressure to bear on them to do this was worthy of exploration.

The United Kingdom was trying to find markets for her basic industries, such as Iron and Steel, Cotton and Coal. The Dominions, on the other hand, were imposing protective duties against such goods. He asked if the Dominions would allow the United Kingdom to select the items on which they would like the Dominions to grant an effective preference.

MR. BENNETT said that he was prepared to help in the case of coal, but he could not give the United Kingdom a free hand in the case of iron and steel.

MR. MACDONALD said that a preference to be effective to the United Kingdom must involve the United Kingdom having a say in the items to which it was to be applied. Thus, if the Dominions asked the United Kingdom to arrange a market for their wheat, the United Kingdom was entitled to ask the Dominions to arrange a market for its iron and steel or woollens.

MR. BENNETT said that he knew that there were some products which the United Kingdom must import and he suggested that it would, for instance, be possible for the United Kingdom to take 50,000,000 bushels of wheat against an export of 5,000,000 tons of coal. He was anxious that the United Kingdom should buy from the British Empire whatever goods they had to import, and he wished to ascertain whether there was any method by which this could be arranged.

MR. RAMSAY MACDONALD said that it would be impossible to deal with one commodity alone, since the whole economy of the country would have to be changed. For instance, if wheat were selected it would be necessary to deal also with barley, oats, &c. There would then be opposition from United Kingdom agricultural interests such as producers of dairy products, poultry and pigs.

MR. BENNETT said that he was much concerned with the dumping of barley from Russia at a figure which corresponded to a Canadian price of 9 cents a bushel. Russia was also making a similar move in regard to canned salmon and coal, and he felt that the British Commonwealth was likely to be very seriously affected by such foreign action. This was a reason why he proposed that the Commonwealth should adopt a policy of preference. He had suggested a figure of 10 per cent merely in order to put forward something concrete, but his main object was to devise any means whereby Commonwealth goods could be preferred to foreign . . . .



MR. SNOWDEN said that all were agreed on the desirability of increasing trade. The question was how to do it. Mr. Bennett had said that he was not wedded to the method of preferential tariffs, but was prepared to consider other arrangements. He could hold out no hope of any departure from the established fiscal policy of the United Kingdom, especially in respect of taxes on foodstuffs and raw materials. There was no political party in this country pledged to such taxes. It would be noted that, in connection with the Paddington by-election, the Conservative Central Office had repudiated the policy of taxation of foodstuffs. The solution of our difficulties and encouragement of our trade must be found in other directions.

Mr. Bennett had suggested the exchange of wheat for coal. This exchange already took place indirectly through the medium of finance and he understood that Mr. Bennett's idea was that such trade should be increased by some special arrangement. He gave, as an example, the Argentine arrangement made last year, but not yet confirmed, for the exchange with the United Kingdom of foodstuffs for manufactured goods. It might be possible by some such arrangement to secure the object they all had in view. At this time of commercial depression there was always a tendency to rush to panic measures. The possibility of exchanging wheat deserved exploration.

As regards the dumping of Russian wheat, he thought they should not attach too much importance to the stories that were current. He knew that they were grossly exaggerated.

From the point of view of the importing country he saw no objection to dumping. It seemed to him to be of advantage to the consuming country.

As regards duties, he would like to point out that 1924, the year when the duty on motor-cars in this country was removed, was one of the most prosperous in the history of the motor industry and that since the imposition of the duty £30,000,000 worth of money had been lost in the industry.

Reverting to dumping, it should be remembered that there were none of us who could not be accused of it. This [*sic*] it was the policy of Australia to subsidise local industry by bounties, *e.g.*, to export sugar at much below the cost of production. Similarly, in this country, the derating scheme passed by the late Government might be regarded as a subsidy to industry.

There were many items which the Dominions did not produce, and on such items they imposed low import duties, which were favourable to United Kingdom products. It was, however, the declared intention of the Dominions to impose protective duties on such items directly they were able to produce them. The United Kingdom, which must always look ahead in its trade policy, must have careful regard to this fact. He felt that contiguity would always make Canada and the United States one economic unit (Mr. Bennett dissented). The higher Canada raised her tariffs against the United States, the more United States capital would come into Canada. None of us want to



reduce our exports in foreign countries, although we all wanted to increase our Empire trade.

MR. BENNETT said that he was content to substitute a given volume of trade within the Empire for foreign trade. . . .

MR. BENNETT said that he was putting his Government's case as forcibly as he could; the United States was watching, and he feared that unless some arrangement could be made for increasing Inter-Imperial trade the position of the Empire would be very serious.

MR. THOMAS said that they must consider all possible ways of increasing trade.

MR. SCULLIN said he thought it was the United Kingdom's turn to put forward schemes to this end.

MR. MOLONEY suggested that a Committee should be set up at once to explore the wheat situation.

MR. SNOWDEN said that he yielded to none in his desire to stimulate Empire trade. If he had rejected tariffs as a method, he believed there were many other ways by which this could be done; in particular, he had in mind improved methods of marketing.

MR. MACDONALD said that they had had an exchange of fundamental views. The whole case was not yet fully explored. The results of the present Meeting had perhaps been negative, but he hoped that those of the next meeting would be more positive. In particular he thought that industrialists in this country should be urged to take advantage of the opportunities the Dominions had given them. The United Kingdom Government had been examining the whole position very carefully and at the next Meeting the President of the Board of Trade would put forward proposals which the United Kingdom Government had in mind with a view to increasing Inter-Imperial trade.

MR. BENNETT thought that it would be useful to set up an informal Sub-Committee to explore the wheat situation and particularly to examine the real position with regard to Russian dumping.

Attention was also drawn to the questions of Bulk Purchase and Price Stabilisation which had been placed on the Agenda at the request of the Australian Delegation, and it was suggested that these subjects might be dealt with by the same Sub-Committee.

It was agreed that Mr. Graham, Mr. H. H. Stevens and Mr. P. J. Moloney should consult together informally with a view to the establishment of a Sub-Committee to consider the above questions.

The meeting adjourned at 12.50 P.M., and it was agreed to meet on Monday, the 13th October at 10.30 A.M., at 10, Downing Street, to resume the discussion, when Mr. Graham would outline proposals on behalf of the United Kingdom Delegation.

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*Extraits des procès-verbaux des réunions des Premiers ministres  
et des Chefs de délégation*

*Extracts from Minutes of Meetings of Prime Ministers  
and Heads of Delegations*

Seventh Meeting

October 13, 1930

SECRET

7. MR. SNOWDEN said there was one point he wished to clear up before Mr. Graham made his statement in continuation of the discussion of Economic Policy. The Press, he pointed out, had given three interpretations of the meaning of Mr. Bennett's proposal for a 10 per cent. increase in tariff. He quite realised that the 10 per cent. was not a fixed figure, and had only been used for purposes of illustration; but, as the exact significance had not been appreciated outside, it seemed important to clear the matter up. There were three constructions which had been put on the proposal. First, that an increase of 10 per cent. meant an increase in the general rate from 30 per cent. to 40 per cent. A second interpretation was that the increase was one of 10 per cent of the existing rates, in which case the 30 per cent would be raised to 33 per cent. The third interpretation was a complete revision of all existing tariffs and a uniform preferential rebate in all Dominions of 10 per cent.

MR. BENNETT said he had only used "10 per cent." as an illustration. He thought he had made it quite clear that he had intended an addition of 10 per cent. of the existing rates.

THE CHAIRMAN said that Mr. Bennett's meaning was made perfectly clear in the note of the discussion appended to the Minutes of the Meeting on the 9th October (P.M. (30) 6, Appendix II).

8. MR. GRAHAM then made a statement in the course of which he outlined the proposals by the United Kingdom Delegation as a basis for consideration by a Committee.

An important discussion followed.

(A Note of both Mr. Graham's statement and of the subsequent discussion is annexed hereto (Appendix I).)

## APPENDIX I

### *Note of Discussion*

MR. GRAHAM said that the effects of Mr. Bennett's suggestion on the United Kingdom trade were under examination, and would be worked out. They had met this morning to discuss other suggestions which he intended to lay before them.

He gathered that the main Canadian anxiety was in respect of the wheat position, and especially the question of Russian dumping. Information as to the quantity of Russian wheat imported into this country had been obtained, and would be circulated at once to those who had attended the informal discussion on wheat. But pending this, he thought it would be of value if each Delegation would bring forward such suggestions as they had in mind for the increase of inter-Imperial trade.

Those present would know that the United Kingdom Government had under consideration a proposal for a quota of home-grown wheat to be used in flour and bread. One of the subjects which might be considered was whether any such quota system could be extended to wheat imported from the Dominions.

As regards Russian dumping of wheat, there was no doubt that the quantities involved had been greatly exaggerated, and he thought the real reason for Russia selling wheat at the price she did was her urgent need of cash and credit. On the question of preventing such dumping, they had had similar difficulties last year in respect of German bounty-fed cereals, and the conclusion arrived at was that our commercial treaty with Germany would have to be denounced before we could take measures to deal with such dumping. We should have lost in other directions by the denunciation of the treaty, and so we had decided that the best course was to make direct representations to Germany in the matter of the dumping of cereals, and negotiations were, he understood, still continuing.

The United Kingdom's policy with Russia had been to do as much trade with her as possible, and to encourage such trade, the Exports Credit Scheme had been extended to Russia, and a commercial *modus vivendi* had recently been concluded. To discriminate against Russian wheat by duty or prohibition would involve a rupture of the commercial relations with Russia, but he thought that it might be considered whether representations might be made to Russia, as they had been to Germany, and whether the Dominion Governments concerned should be associated with such representations.

MR. GRAHAM then turned to the subject of bulk purchase, import boards and price stabilization, which had been put on the Agenda by the Commonwealth Government. He took it that the object of such schemes was to stabilize prices, but it must be recognized that they raised large questions of principle. If a scheme of bulk purchase were recommended, machinery involving import boards would be required, and the effect on our commercial relations with foreign countries would require examination, since the necessary control would have to be extended to foreign as well as Dominion supplies in order to prevent any charge of discrimination. Again, the consumer would need to be protected from paying an uneconomic price, and no liability should fall upon the Exchequer.

Were there other devices for encouraging mutual trade? It might be useful in this connection to examine the reciprocal agreement which had been negotiated between the United Kingdom and Argentina. The D'Abernon

Mission had recommended a scheme by which Argentine public enterprises should purchase their requirements of heavy products against the purchase by the United Kingdom of Argentine cereals to the same value. So far as the purchases to be made by the United Kingdom were concerned, this only meant that we should continue to purchase cereals which we were already purchasing; on the other hand, the Argentine purchases from the United Kingdom, to the extent of about £8½ million, were to be new business. The original agreement had been modified until it rested on credits to be arranged by the interests in each country concerned, and owing to political developments it had, in fact, not been brought into force. He quoted the arrangement as an illustration of constructive proposals in the field of voluntary preferences.

It might be possible, for instance, to work out some such scheme for the exchange of Canadian wheat for United Kingdom coal. In working out any such scheme it would be necessary to examine whether it would involve the establishment of special machinery by the State to work it, or whether it could be worked through any existing organization. This would depend on how far machinery was already developed.

For example, in the coal trade there had recently been great progress in central organization. He thought that the matter deserved careful exploration.

Another suggestion he wished to bring forward was what might be termed the allocation of production between the various parts of the British Commonwealth. Mr. Scullin had already suggested that this required examination. The idea was that industrial agreements should be arranged whereby the manufacture of certain products should be allocated geographically with a view to rationalising production as far as this was practicable.

There were other suggestions which he thought might also be examined, though he did not wish to discuss them in detail at this stage. For instance, might it not be of advantage if the Imperial Economic Committee were given somewhat wider terms of reference? Again, in matters of research, was there as much co-ordination as was possible? Standardization was another subject which deserved examination, and was closely linked up with the development of industry throughout the Commonwealth in co-operation. The work of the Empire Marketing Board, and the effects of the Colonial Stock Act, were other subjects which might also be considered. He thought that by examining these and similar questions it should be possible to build up a valuable programme for the development of co-operation among the different parts of the Empire, to which the United Kingdom could contribute no small measure of assistance. . . .

MR. BENNETT enquired whether the proposals which Mr. Graham had outlined would involve legislative action before they could be made effective.

MR. GRAHAM replied that in the case of Import Boards legislation would be necessary, but that an arrangement on the lines of the Argentine Agreement could probably be come to without legislation being involved.



MR. BENNETT thought that all the suggestions put forward by Mr. Graham would involve legislation or executive action requiring the support of the legislature.

MR. THOMAS said that last year the United Kingdom has increased its sales of anthracite in the Canadian market from 360,000 to 640,000 tons. If arrangements could be made for the ships which carried coal to bring back wheat, a reduction on the outward freight for coal of about 3s., or 4s., would be involved and the effect of this would be considerably greater than would flow from any import tariff preference. Nearly the whole of the anthracite produced in the United Kingdom was under the control of a combine while some 50 per cent. of the wheat exported from Canada was controlled by the wheat pool. Surely it should be possible for arrangements to be made whereby ships carrying coal to Canada should come back loaded with wheat.

The amount of Canadian wheat consumed in this Country depended on the price at which it could be bought; thus, in 1928, Canadian wheat constituted 40 per cent. of the flour in a loaf of bread, while, in 1929, the proportion dropped to about 16 per cent., because of the higher price compared with other supplies.

MR. BENNETT said that the United States were very keen on the Canadian anthracite market and he thought that a tariff was the only way of meeting the situation. Recently, there had been considerable imports of Russian anthracite of excellent quality. This Russian anthracite was very cheap and if the imports continued Russia might soon control the whole of the hard coal market in Canada. The price at which Russian anthracite sold appeared hardly enough to pay for the cost of its transport from the Black Sea.

He enquired whether there were any among the suggestions put forward by Mr. Ghaham which did not involve legislative action or State control of some kind. He would like to know also what were the terms of the commercial arrangement between the United Kingdom and Russia.

MR. GRAHAM replied that the Agreement with Russia was on the ordinary most favoured nation lines. It seemed to him that even if the United Kingdom excluded Russian wheat, that wheat would still find a market somewhere and would thus remain in competition with Canadian wheat on the world's markets. He did not, therefore, appreciate what benefit could accrue to Canada from the United Kingdom prohibiting its importation.

MR. BENNETT said that he assumed that before long the whole civilised world would shut out dumped Russian wheat. Several countries had already taken action. Dumped Russian goods were a menace to our civilization, which would be overwhelmed if nothing were done.

MR. SNOWDEN said that he thought that Russia would be suffering from her own action before the rest of the world was overwhelmed. It was quite impossible for Russia to continue for long to export her goods far below the cost of production, and he thought that financial difficulties were the reason for the present dumping . . . .



MR. THOMAS drew attention to the fact that Canada was importing 1 million dollars worth of steel a day from the United States. He had been informed by the business interests in Canada during his visit there that they would prefer British steel if they could get it. At that time there was no organisation in Canada to represent the steel interests of this country and to endeavour to secure orders for the industry as a whole. Now, however, arrangements had been made for such a representative in Canada and for the advantage which the United States secured through their quick delivery to be offset by the maintenance of a large stock of United Kingdom steel in Canada. Mr. Bennett had said that it was undesirable that the British standard of living should be pulled down by the Russian standard of living. It should be pointed out that the United Kingdom suffers from the competition of countries with a lower standard of living, such as Belgium. The question was how far could mutual trade help to maintain the high standard of living of the Empire. Mr. Scullin had enquired how long existing duties in this country would be maintained. The difficulty in answering such a question was similar here to what it would be in a Dominion if the United Kingdom were to enquire how long the existing tariffs on United Kingdom goods were likely to last. Figures had been worked out during the week-end to see how far Mr. Bennett's proposals on the 10 per cent basis would be of benefit to the United Kingdom. It appeared that such action would hardly benefit the trade of the United Kingdom at all.

MR. STEVENS said he thought that it would be a waste of time to discuss details on the present occasion. It was essential to have an understanding on broad principles as to what forms of action could be adopted. He understood from the Chancellor of the Exchequer that the United Kingdom was definitely unable to accept the broad general principle of preference.

MR. SNOWDEN said that he would accept nothing that involved the imposition of duties on food or raw materials.

MR. STEVENS said that he understood that Mr. Graham had ruled out import boards and quota schemes because legislation would be necessary.

MR. RAMSAY MACDONALD dissented, and stated that if on examination the quota proposals were found to be satisfactory, the necessity for legislation would not set them aside so far as the United Kingdom was concerned.

MR. STEVENS said that the difficulty was that no definite proposals for increasing inter-Imperial trade had been made by the United Kingdom. Meanwhile, the Russian dumping of coal, wheat and lumber threatened to damage seriously the whole trade of the Empire, and it seemed most undesirable for the Governments of the Empire to sit by and allow this to go on without taking any action to correct it.

He thought that the meaning of Canadian preference to the United Kingdom should be more fully appreciated; without that preference the United Kingdom export trade to Canada would be practically ended. Canada wished to enlarge her trade with the United Kingdom, but if there was no response to

her proposals, then Canada would have to consider how long it would be possible to maintain her preferential treatment of United Kingdom goods, which had endured for 30 years.

MR. RAMSAY MACDONALD felt that it was desirable to avoid in this discussion the use of phrases which were not directly related to trade. He felt that a list should be drawn up of the questions under discussion, and that this should then be examined separately by a Committee, but that there should be no hard and fast decisions at this stage. He preferred that all parts of the Commonwealth should say what their proposals were and that the United Kingdom should then discuss these proposals in relation to its trade needs, and, in particular, should say how far the proposals could be accommodated to the foreign trade of the United Kingdom. The discussion had tended rather to centre on the trade of the United Kingdom with Canada and Australia, but a comprehensive trade policy would be required to deal not only with those two Dominions, but also with New Zealand, the Union of South Africa, the Irish Free State, Newfoundland and India. . . .

MR. MOLONEY enquired whether it would be possible to investigate proposals for preferential tariffs in cases where direct advantages to United Kingdom trade would accrue, *e.g.*, assistance to the Australian canned fruit industry might enable the whole of the Australian requirements of tin-plate to be obtained from the United Kingdom.

MR. BENNETT said that in his view preferential tariffs were the only practicable method, and the question was how should such treatment be applied in particular cases. It seemed to him that the other methods which had been suggested that morning involved State trading.

MR. RAMSAY MACDONALD dissented. He said that organised trading was involved, but not necessarily State trading.

MR. STEVENS said that it appeared to him necessary to decide whether or not a programme for the increase of inter-Imperial trade could be carried through by the method of preferences.

MR. RAMSAY MACDONALD said that he thought a distinction should be drawn between preferences and preferential tariffs; the latter was only a part of the former.

MR. BENNETT said that the only method giving effect to preferences other than by means of tariffs appeared to him to be the Quota System, Import Boards, Licences or Treaties.

MR. SNOWDEN said that the United Kingdom would not hesitate to adopt any of the latter methods if it was thought that a large volume of trade would ensue, but that there could be no hope for any method which involved a change in the fiscal system of this country.

MR. RAMSAY MACDONALD said that he felt convinced that as soon as the Dominions were faced with the actual facts involved in their various proposals they would find it impossible to continue to press the United Kingdom to

adopt the method of preferential tariffs. Tariffs and State trading were not the only alternatives which had been put forward. For instance, it might be possible to give a preference on wheat without either tariffs or State trading by means of the quota system. . . .

MR. RAMSAY MACDONALD enquired whether any Dominion definitely suggested the imposition of a wheat duty by the United Kingdom, and if so whether it was desired that this matter should be discussed.

MR. BENNETT said that such a proposal must be involved in the suggestions which he had put forward. . . .

## 177.

### *Extraits des procès-verbaux des réunions des Premiers ministres et des Chefs de délégation*

### *Extracts from Minutes of Meetings of Prime Ministers and Heads of Delegations*

Eighth Meeting

October 14, 1930

SECRET

. . .

3. The discussion on Economic Policy was resumed . . . .

(A note of the Discussion on Economic Policy is attached as Appendix I.) . . .

## APPENDIX I

### *Note of Discussion*

MR. BENNETT said that, after listening to the discussion, he understood that the quota system was designed to secure the largest possible market for the United Kingdom producer and imports at the cheapest possible price. It seemed that these objectives could be secured by his scheme of tariff preferences. He referred to a telegram which he had received from Buenos Aires suggesting that the wheat-exporting countries should come to an agreement to divide the market. Canada did not wish that the price of bread to the United Kingdom consumer should be increased.

MR. THOMAS said that during his visit to Canada he had proposed to the Canadian wheat pool that elevators should be constructed in the United Kingdom and that Canadian wheat should be released for shipment thereto.

He understood that, 12 months ago, the Canadian Wheat Pool was negotiating with the Argentine interests for the formation of a pool. The difficulty of the United Kingdom was that, with their present standard of living, they could not afford to increase prices to the consumer. Mr. Stevens had drawn attention to the relative prices of wheat and bread. It had to be remembered that in Canada the difficulty of protecting the consumers from exploitation

under the recent tariff had been specifically recognized. Mr. Bennett had quite recently taken action to prevent such exploitation in the case of a particular product. Mr. Bennett now suggested some form of preference, on the understanding that the price to the United Kingdom consumer would not be increased. The question was how to devise a means to achieve this objective.

MR. RAMSAY MACDONALD said that all present were of the same frame of mind as to the end to be achieved, but tremendous difficulties arose as to the method of reaching this end. He read a resolution which he had received from the Manchester Chamber of Commerce, and pointed out that, whilst the first two parts of this resolution favoured Mr. Bennett's proposal, the last part set out clearly the United Kingdom's position. He felt that the only way of ascertaining whether, in fact, Mr. Bennett's proposals did call for sacrifices from the United Kingdom out of all proportion to the benefits to be received was to get down to hard facts and to have these proposals thoroughly examined by experts.

MR. STEVENS said that, if it was found that the offer made by Canada was inadequate, Canada was prepared to meet the United Kingdom's views.

MR. SNOWDEN pointed out that Manchester was interested in cotton and enquired whether Canada was prepared to reduce the rates on cotton goods from the United Kingdom, since he had understood that Mr. Bennett's proposal was to keep the rates at the present figure.

MR. STEVENS said that a long list of rates was involved, and that the Canadian Government would be prepared to go through this list and give reductions wherever it was possible . . . .

MR. RAMSAY MACDONALD enquired whether the quota system should be sent to a Committee of Experts. He pointed out that the system had only been discussed as a domestic arrangement and it was necessary to ascertain whether it could be applied to Dominion products. It appeared to him easier to operate in the case of very large purchases than in the case of commodities where smaller quantities were involved. In the latter case the machinery required might be out of all proportion to the advantage to be gained. The question was whether the existing Committee on wheat should be expanded in order to deal with the quota system.

MR. GRAHAM said that he thought that unless a further general discussion was desired on the other alternative methods put forward by the United Kingdom Government, it would be desirable to have one General Committee and two or three sub-committees for detailed analysis of such subjects as the quota system, exchange of commodities on the lines of the Anglo-Argentine Agreement, bulk purchase and import boards, allocation and rationalisation of industries, the Imperial Economic Committee and the Empire Marketing Board, and similar bodies.

MR. BENNETT said that he felt it essential that, before referring questions other than the quota system to sub-committees, there should be a general



discussion of such subjects. He did not wish matters to go to sub-committees until he was aware what was involved.

It was agreed—

(a) That the informal Committee (composed of Mr. Graham, Mr. Stevens and Mr. Moloney) which had been considering questions relating to wheat, such as dumping, &c., should be expanded by the addition of one representative each, if desired, from New Zealand, the Union of South Africa, the Irish Free State, Newfoundland and India, and that the question of the Quota System should be referred to it;

(b) That the Heads of the Delegations concerned should nominate their representatives to attend a meeting of the above Committee at the Board of Trade the same afternoon at 3 P.M.

(c) That the Heads of Delegations should meet again on Thursday, the 16th October, at 10:30 A.M., to resume the discussion on Economic Policy and to take up in turn the various proposals outlined by Mr. Graham in his statement on the previous morning.

## 178.

*Extraits des procès-verbaux des réunions des Premiers ministres  
et des Chefs de délégation*

*Extracts from Minutes of Meetings of Prime Ministers  
and Heads of Delegations*

Ninth Meeting

October 16, 1930

SECRET

5. A discussion then followed on Economic Policy . . .

(A Note of the discussion on economic policy is attached as Appendix I.) . .

## APPENDIX I

### *Note of Discussion*

...

MR. SNOWDEN said that the idea of the advocates of the bulk purchase scheme was to purchase the estimated requirements in the cheapest market, and it would be open to the Board to make forward contracts. Stabilization of prices did not enter into the scheme. He assumed that producers would only enter into long-term contracts if they could agree on what they considered a favourable price. Assuming an Import Board for, say, wool had agreed a long-term contract with the wool growers before the recent drop in the price of wool, one of two things would happen. Either the manufacturers of wool, who could only buy from the Board, and who exported a large part of their production in competition with manufacturers in foreign countries, would be faced with ruin, or the Exchequer would have to come to the rescue.

The advocates of the scheme argued that it would introduce economy by eliminating the middleman and that the resulting advantage would accrue to



the consumer. The scheme had been thoroughly examined and the conclusion come to was that no economy would be effected in respect of imports of meat and wheat, which were already in the hands of quite a small number of importers.

MR. BENNETT said that this question of bulk purchase had been carefully examined in Canada. He felt that a certain confusion had arisen owing to the fact that bulk purchase had proved a satisfactory method during the war and that hence it was argued that it was also a practicable method for peace time. He had serious doubts as to the practical results which would attend the operation of such a system during time of peace. If the United Kingdom wished to set up Import Boards, that was, of course, a matter concerning only the United Kingdom, but the question of the extent to which the establishment of such Boards might affect relations between the United Kingdom and Canada was a matter with which Canada was closely concerned. He felt that, with such a system, there were endless possibilities of conflict of views, press agitation, &c., as between the two countries. Either the Board would act on the basis of buying in the cheapest market, in which case Russian and other dumped products would have an advantage over Dominion products, or else, if the Board were tied by special instructions to buy a part or the whole of its requirements within the Empire, it would tend to become a political football. The United Kingdom Government would be forced to accept responsibility for the actions of the Board even though the latter were established as an autonomous body.

He also drew attention to a statement by Sir O. Mosley, as Chancellor of the Duchy of Lancaster, in the House of Commons in which it had been pointed out that an Import Board, purchasing all the requirements of the United Kingdom in a given commodity, would be in a very strong position *vis-à-vis* the Dominion producers, and hence that the latter might suffer under such arrangement . . . .

It was agreed that the matter should be referred to Mr. Graham's Committee on Economic Co-operation, on the understanding that no decision had been reached by the Heads of Delegations as to the principle involved . . . .

179.

*Extraits du procès-verbal du comité des relations intra-impériales*

*Extracts from Minutes of Committee on Inter-Imperial Relations*

Fifth Meeting

October 16, 1930

SECRET

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#### FORM OF COMMERCIAL TREATIES

5. THE CHAIRMAN informed the Committee that he understood the Canadian Delegation were desirous of making clear their point of view on this subject.

MR. READ stated that the Canadian Government did not understand how it could be maintained that the existing procedure was not in accordance with the Report of the 1926 Conference. If Canada desired to say nothing at the time of negotiation and subsequently took advantage of the "accession" and "nevertheless" clauses, such a proceeding seemed to him in perfect consonance with equality of status. Nothing was imposed upon Canada. She got the necessary information and, if she so desired, she could object to her inclusion and ask for special exclusion. In his opinion the United Kingdom Government could negotiate for benefits for other parts of the Commonwealth just as much as the Canadian Government in its negotiations could provide for "accession" and "nevertheless" clauses for the benefit of the United Kingdom. It was perfectly conceivable that Canada would desire that certain privileges to be obtained, for example, for British subjects, should not necessarily be confined to Canadian nationals. He found the existing procedure convenient and expedient, particularly when countries where there were no Canadian representatives were concerned. Consequently, the Canadian Government was not prepared to support any change in existing procedure.

MR. BRENNAN stated that the Australian position could be summed up in two propositions:

(1) The Conference re-affirms the principle that it would not be in accord with the established constitutional position of all Members of the British Commonwealth of Nations in relation to one another that any treaty made by any Member shall impose any obligation upon any Dominion without the consent of that Dominion.

(2) There are substantial advantages in the retention of the "accession" and "nevertheless" clauses, which confer upon the Dominions a free option and benefit unaccompanied by any obligation.

DR. BODENSTEIN stated that the South African point of view had been fully explained at the previous meeting. Briefly, it was that before any clause which would secure benefits for South Africa was proposed to a foreign Government, the South African Government should be consulted, and that if the proposed action was convenient the South African Government would agree, but if they objected they would say so.

MR. MCGILLIGAN stated that, put shortly, the Irish Free State position was that it was contrary to constitutional practice for the United Kingdom Government to stipulate for benefits, just as much as it was unconstitutional for it to impose obligations on other parts of the Commonwealth.

In reply to the Chairman, Mr. McGilligan suggested that the question was one of finding a formula which would enable the advantages of the present position to be retained by those Dominions who desired it, without doing violence to the constitutional principles involved. He himself had some doubt as to whether there was a real agreement upon the principle involved among the members of the Committee, but he wanted to know definitely what Mr. Read thought would happen if the Canadian Government were to ask for specific exclusion from a United Kingdom treaty.

MR. READ replied that were it to happen that the Canadian Government objected to their inclusion in any shape or form in a United Kingdom treaty and were to press their objections, the solution would be found along the lines of the precedent of the Soviet negotiations, namely, a declaration of exclusion.

DR. BODENSTEIN pointed out that this point was of particular interest to the South African Government since such a procedure made it necessary for the South African Government to declare its position openly. In the case of the Soviet negotiations, for example, they would have wished to say nothing, but the action of the United Kingdom Government forced them into the invidious position of having to make a provocative declaration which they would have preferred to avoid. In his opinion the form of the treaty should be such as not to render specific exclusion of any non-assenting Dominion necessary.

THE CHAIRMAN pointed out that the necessity was to legislate for the normal and that it was almost impossible, when legislating for the normal, to cover all possible abnormalities. He asked Mr. McGilligan to realise that the United Kingdom Government had been endeavouring to do their best for other Members of the Commonwealth, and he put it to him that one Dominion should not jeopardise the advantages which other Dominions enjoyed.

He then proposed and it was agreed that a small sub-committee should be set up, and that the names of the persons to serve thereon should be notified to Mr. Howorth, who would also make the necessary secretarial arrangements . . .

## 180.

*Extrait du procès-verbal du comité des relations intra-impériales*

*Extract from Minutes of Committee on Inter-Imperial Relations*

Sixth Meeting

October 17, 1930

SECRET

...

### INTER SE APPLICABILITY OF TREATIES

THE CHAIRMAN reminded the Committee that it had been agreed that the Canadian delegate should continue the discussion.

MR. DUPRÉ expressed the Canadian view as follows:

1. Referring to the constitutional question, I am in sympathy with the position taken by Mr. McGilligan.

Whether or not an *inter se* obligation can be created in the case of agreements between Heads of States is a legal question and one upon which there can be two opinions. It is unfortunate that in the 1926 Report the two paragraphs referred to are in language implying that legal obligations cannot subsist between His Majesty in right of one Dominion and His Majesty in right of another Dominion, because it is at least arguable that such obligation can subsist.

It is even more unfortunate that the 1926 Report referred to the opinion of the Legal Committee of the Arms Traffic Conference, which was based upon patently fallacious reasoning.

2. It may be suggested that the matter could be adjusted without prejudice to either view on the first point by drafting a paragraph for our report.

3. Coming to the points of substance, I may suggest that, in negotiating multilateral pacts, the question whether their provisions are to apply *inter se* is to be governed by one consideration, namely, our own intention. In order to ascertain that intention, we should make a rule of interpretation.

4. In negotiating such treaties or agreements we are, as a matter of fact, thinking primarily of our relations with foreign countries. For example, when we renounced war we were not thinking of a renunciation of war against the Irish Free State, one of our mother countries, or against New Zealand, a sister Dominion.

In the 'General Act' we are not actually thinking of Conciliation with Australia.

Consequently, multilateral pacts are apt to contain provisions eminently suitable to our relations with Italy or China, but quite inappropriate to our relations with Newfoundland.

5. Accordingly, while, from a legal and constitutional point of view, there can be no possible reason for excluding *inter se* obligations from a multilateral pact, the special character of our relationship makes it undesirable to apply many of the stipulations to ourselves.

6. It may be suggested that it would be desirable to confine the 'Heads of States' form to cases where *inter se* obligation is not intended, and to place on record that, when a treaty or convention is concluded between Heads of States, it shall be construed as creating no obligations and rights as between the Dominions. It should also be placed on record that Agreements between Governments shall be construed as creating *inter se* obligations and rights unless such construction is prevented by an appropriate stipulation or reservation. Personally, I should have preferred that even the Agreement between Governments should be construed as having no *inter se* application. In that event the *inter se* application would arise from an exchange of notes in cases where it was regarded as desirable. We should thus eliminate the need for a distinction based upon the form of the treaty, and we could thus avoid a most objectionable type of reservation. It do not, however, press this point.

7. To sum up, I am proposing that we should make it clear that the question of *inter se* application should not be linked in any way with disputed or obsolete legal theories. We should decide what we want and let the question of *inter se* application depend upon that decision.

THE CHAIRMAN drew particular attention to the final summing up of the Canadian proposal.

SIR ROBERT GARRAN questioned the use of the phrase "disputed or obsolete legal theories." He personally thought that the two adjectives should be omitted, since it would be better to make the definite statement that the proposal was not connected with any legal theories.

The Canadian Delegation agreed that the adjectives were not essential.

THE CHAIRMAN then put the question.

MR. BRENNAN accepted the Canadian proposal.



LORD MORRIS accepted the Canadian proposal.

DR. BODENSTEIN accepted the Canadian proposal.

SIR T. SIDEY, speaking on the spur of the moment, said he saw no objection to the Canadian proposal, but would like time for further consideration.

MR. MCGILLIGAN thought he could accept the Canadian proposal . . . .

# 181.

*Extraits du procès-verbal du comité des relations intra-impériales*

*Extracts from Minutes of Committee on Inter-Imperial Relations*

Seventh Meeting

October 20, 1930

SECRET

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## CHANNELS OF COMMUNICATION WITH FOREIGN GOVERNMENTS

3. THE CHAIRMAN drew the attention of the Committee to document E. (30) 30, which had been circulated.

MR. MOUNSEY explained the principles underlying the document, which, while maintaining the general principle of retaining the diplomatic channel for matters of high policy, was intended to simplify and provide a quicker procedure in other matters. The United Kingdom proposals would enable Dominion Governments to communicate direct with His Majesty's Representatives at all posts where they were not separately represented on matters of lesser importance, copies being sent to the United Kingdom Government for information at the same time. A list of such subjects had been drawn up which could, if necessary, be added to. And further, it was proposed that, in matters of emergency, the Dominion Governments could communicate their instructions direct to His Majesty's Representatives abroad on any subject, but that before taking action the Ambassador or Minister concerned would await complementary instructions from the United Kingdom Government.

THE CHAIRMAN then read to the Committee the document E. (30) 30.

MR. READ was inclined to deprecate any attempt at a rigid definition of the channels to be used in any given circumstances. He thought that it would be better to allow for gradual development along the lines which experience proved necessary. He was not opposed to the memorandum so long as it was regarded as a document for the general guidance of the various Governments, but he would definitely object if it was intended to pin the Dominion Governments down to the four corners of the document. He instanced the possibility of a Canadian claim arising in Mexico and coming to the notice of the Canadian Government very shortly before the period for notification of claims expired. According to the literal terms of the document, they would have to communicate this claim to the United Kingdom Government, who, in their turn, would have to notify the Minister at Mexico City, with the result



that it would be almost impossible to lodge the claim before the time-limit expired. Under the present system the Canadian Government would notify His Majesty's Minister at Mexico City direct, and the latter would therefore be able to lodge the claim in time. He thought however, that there was some advantage in issuing some general guidance, since at present a large number of cases were left to the responsibility of the individual Ambassador or Minister concerned for decision.

SIR ROBERT GARRAN thought that the memorandum would meet the Australian requirements. He appreciated the Canadian objection to precise definition, and if the Foreign Office agreed with the Canadian contention, he himself saw no objection to its adoption. He would, however, like to make an additional suggestion, namely, that when any Ambassador or Minister was reporting to the Foreign Office upon a subject which he considered would affect any Dominion interest, he should be authorised to send a copy of his despatch to the Foreign Office direct to any Dominion Government concerned.

MR. FORBES had no desire to alter the existing procedure, but he would not object to the procedure suggested in the memorandum being adopted if considered desirable.

THE CHAIRMAN said that naturally provision would be made for any Dominion who preferred it to continue the existing practice.

DR. BODENSTEIN agreed with Mr. Read. He thought that it would be inadvisable to issue too rigid instructions. He did, however, think there was a distinct advantage in adopting the procedure indicated in the memorandum over the existing practice, namely, that it would quite definitely authorise His Majesty's Representatives abroad to act on the instructions of Dominion Governments in a large number of cases where at present procedure was either doubtful or confined to the strict diplomatic channel. He therefore thought that the procedure outlined in the memorandum should be adopted.

THE CHAIRMAN pointed out that we were in the process of evolving new machinery to give effect to the constitutional position settled in 1926, and that it could not be expected that this new machinery would work smoothly and efficaciously from the first. There must, therefore, be a certain amount of elasticity, and, in addition, emergencies must be provided for.

At the request of Dr. Bodenstein, SIR ROBERT GARRAN explained that his suggestion was not exactly covered by the memorandum, since it referred not to matters mentioned in paragraph 3, which would naturally be the subject of direct communication between the Ambassador or Minister concerned and a Dominion Government, but to new questions and matters of political interest which might affect the Dominions.

DR. BODENSTEIN agreed that this would be a useful addition.

THE CHAIRMAN stated that there was no objection to suggesting this procedure . . . .

MR. READ said that he would like the penultimate sentence of paragraph 5 to be amended to read: "It is understood that such communications would *if*

*practicable* be repeated to His Majesty's Government in the United Kingdom and would indicate to the Ambassador or Minister that *wherever* possible complementary instructions from London were to be awaited before action."

THE CHAIRMAN said that it was clear that the Report of the Committee should be such as would indicate (1) the need of elasticity in the machinery of communication with foreign Governments; (2) the freedom of each Dominion to retain the existing procedure should it so desire; (3) the provision for dealing with emergencies . . . .

#### COLONIAL LAWS VALIDITY ACT

7. THE CHAIRMAN read paragraphs 58, 59 and 60 of the Report of the Conference on the Operation of Dominion Legislation (Cmd. 3479) and asked whether these paragraphs were accepted by all those present and whether the discussion of the Report could proceed on that basis.

The Committee agreed unanimously that this course should be adopted.

THE CHAIRMAN observed, with regard to the Colonial Laws Validity Act, that admittedly in some cases this Act put a limit on the power of the Dominions to legislate, though, in practice, he did not think that it had had this effect to any great extent. On the question of disallowance, he pointed out that this power had not been exercised since 1867 in the case of New Zealand and since 1873 in the case of Canada. In the case of the Commonwealth of Australia and the Union of South Africa it had never been exercised, and, in the case of the Irish Free State, the constitution contained no provision for disallowance. On the question of the repeal of the Colonial Laws Validity Act, he did not see any special difficulty in the case of such Dominions as the Union of South Africa and the Irish Free State, which were unitary States, but he thought that possibly difficulty might arise in the case of Canada and Australia in view of their federal constitutions. In this connection it should be observed that, rightly or wrongly, in some cases, minorities in the Dominions regarded the Colonial Laws Validity Act as a safeguard. He also observed that the object of the power of reservation in the past had been not so much to enable the United Kingdom to fetter the liberty of any particular Colony as to afford an opportunity for consideration of the interests of other parts of the Empire. It would be unfortunate if any course now adopted were to have consequences detrimental to any particular Dominion.

MR. READ said that, in any action taken with regard to the Report of 1929, it was necessary to preserve the liberty of the Canadian Government and the Canadian Parliament. Before they could give final approval, the Canadian Government must consider certain questions raised by the Canadian Provinces and so far there had been no opportunity for such consideration. He thought, however, that, provided that the position of the Canadian Government and Parliament were safeguarded, it would be possible to proceed with the discussion of the recommendations of the Report.

MR. DUPRÉ explained that the British North America Act of 1867, which was the Confederation Act of Canada, was the result of agreement between the Provinces. Since then, many theories of the position had been put for-

ward, but that on which it seemed best to place reliance was that by the Act certain rights were established, namely, those of the Federal Parliament and those of the Provinces. The Provinces now contended that there should be no amendment of the British North America Act unless they had been consulted. It was admitted that some amendments had been made in the Act without such consultations, but it was contended that these were amendments of comparatively little importance not touching the rights of the Provinces. Both the Premier of Ontario and the Premier of Quebec had entered written protests against any action affecting the British North America Act being taken as a result of the 1929 Report unless the Provinces were consulted. He observed that these two Premiers belonged to different political parties and that this indicated that the attitude was not confined to one particular party. He explained that the Canadian Government did not wish to delay matters, but it was necessary to take account of their particular difficulties.

SIR WILLIAM JOWITT asked whether, if an Act were passed by the United Kingdom Parliament in the form of an enabling Act giving the power to any Dominion to repeal the Colonial Laws Validity Act, this would create difficulty with the Canadian Provinces.

MR. DUPRÉ could not undertake to answer this question immediately, but promised to consider it . . . .

## 182.

*Extraits du procès-verbal du comité des relations intra-impériales*

*Extracts from Minutes of Committee on Inter-Imperial Relations*

Eighth Meeting

October 21, 1930

SECRET

COLONIAL LAWS VALIDITY ACT

. . .

THE CHAIRMAN explained that the question under consideration had been merely the question of the best way of repealing the Colonial Laws Validity Act. The suggestion had been made that it could be done by means of an Act enabling the Dominions to repeal it by Dominion legislation, as it was thought that the Union of South Africa and the Irish Free State, if they wished, would have no difficulty in passing this legislation, while, on the other hand, it might be of assistance to Canada or Australia to enable them to consult the Provinces or States before action for the repeal of the Colonial Laws Validity Act in respect of Canada or Australia was finally taken . . . .

MR. MCGILLIGAN said that, so far as he was concerned, his desire was to see the 1929 Report implemented as soon as possible. He thought that the delay suggested by Sir Thomas Sidey would be very dangerous. The implications of the Report of 1926 had presumably been considered by the respective Governments for three years by way of preparation for the Conference of 1929, and the Report of the 1929 Conference had been in everyone's hands for a year. He did not understand that it was the desire of Canada to hold up action

generally, and he thought that the method proposed by Dr. Bodenstein, of passing the Act with a suspensory clause, ought to meet the Canadian difficulty.

SIR WILLIAM JOWITT suggested that there were two propositions to be considered:

1. Do we agree that no Dominion should have powers thrust upon it if it does not want them?
2. Do we agree that we ought not, by our legislation, to place a Dominion in an invidious position?

He felt that the Canadian view might be that Dr. Bodenstein's proposal would not do away with the difficulty over the position of the Canadian Provinces.

MR. DUPRÉ read a statement in the following terms:

Representations were made by certain of the Canadian Provinces to the effect that the Provinces should be consulted before the provisions of the 1929 Report should be implemented. To this protest our Government is bound to give consideration, and therefore we cannot take part in this discussion.

SIR WILLIAM JOWITT said that the report of 1929 was a compromise, and that the refusal of Canada to discuss it now made the position of the United Kingdom very awkward. If by delay it were possible to secure agreement with Canada, would not such delay be justified?

MR. BRENNAN said that he felt surprised and somewhat disappointed at the statement made on behalf of Canada . . . .

MR. MCGILLIGAN said that the object of the Irish Free State since 1921 had been to remove difficulties and to substitute free and friendly co-operation. The efforts of their delegations in 1926 and 1929 had been directed to that end, and, in order that such co-operation might be effected, the removal of anomalous details which were derived from past history was essential. He felt that it would be most unfortunate if the Canadian position now prevented a solution of the outstanding problems, and he could not help feeling that the difficulty of Canada was only insoluble owing to the fact that Canada declined to take part in the discussion.

THE CHAIRMAN said that, in the light of the discussion which had taken place, he would attempt to draft a report . . . .

### 183.

*Extraits du procès-verbal du comité des relations intra-impériales*  
*Extracts from Minutes of Committee on Inter-Imperial Relations*

Ninth Meeting

October 24, 1930

SECRET

1. THE CHAIRMAN said that he had been informed by the Prime Minister that the Report of the Committee was required without delay. He said that he had urged that some further opportunity for discussion would give a much



better opportunity for reaching a satisfactory report, but that he was informed that time would not permit of any further delay. He therefore proposed that he should endeavour to circulate a preliminary draft Report on certain subjects for consideration on Monday . . . .

#### COLONIAL LAWS VALIDITY ACT

7. MR. DUPRÉ quoted the terms of a Resolution passed in the Canadian Parliament earlier this year approving the Report of the Conference of 1929 and suggesting that steps should be taken at the forthcoming Imperial Conference to ensure that effect should be given to it at an early date. He indicated that it was the view of the Canadian Delegation that they could do nothing which was inconsistent with that Resolution. On the other hand, since then the Provinces had sent in a protest to the effect that they had not been consulted and should be consulted. The Canadian Delegation therefore felt that they must put in a reservation that they must consult the Provinces before concurring in the acceptance of the 1929 Report. They did not, however, wish to hold up consideration of the Report.

MR. READ explained that he understood the view of the Canadian Ministers to be that they did not wish the discussion of the Report to be delayed, or to take action inconsistent with the Canadian Parliament's Resolution of approval of the Report, but they felt that they could not be asked to go beyond this until they had had an opportunity of consulting the Canadian Provinces. Subject to this, he thought that it would be possible to proceed to discussion of the 1929 Report.

THE CHAIRMAN suggested that the best method of dealing with the Colonial Laws Validity Act would be for the United Kingdom to pass a law providing that any Dominion which desires no longer to be bound by the Colonial Laws Validity Act should cease to be bound after their two Houses of Parliament have passed a resolution to this effect.

MR. READ expressed doubt whether this method would quite meet the Canadian difficulty.

THE CHAIRMAN enquired whether the position could be met if the requirement in the case of Canada was that the Provinces also should have agreed to the repeal of the Colonial Laws Validity Act.

MR. READ explained that the repeal of the Colonial Laws Validity Act would not operate in the Provinces as such; moreover, such a procedure suggested by the Chairman would derogate from the power of the Dominion to deal with the matter. The procedure he understood to be contemplated for dealing with the Provinces was an Inter-Provincial Conference. If agreement was reached there the difficulty would be solved.

THE CHAIRMAN enquired how they would be hurt if they had the right to exercise an option. If such an option were given, the Irish Free State, no doubt, would wish to exercise it at once; on the other hand, Canada would put it before the Provinces. If the Provinces agreed, the necessary resolution could then be passed . . . .



THE CHAIRMAN said that his position was that he could not promise to get the 1929 form of Act through, but he thought a measure would be much more likely to go through the United Kingdom Parliament, especially the House of Lords, if it were permissive in form. In the circumstances would it not be better to use the permissive form?

LORD MORRIS enquired whether it was really thought that the House of Lords would oppose a measure unanimously recommended by an Imperial Conference.

MR. READ said that he could not see any particular difficulty as regards Canada. They were prepared to discuss the provisions of the Report. He thought that, in fact, before there was any time for legislation to be introduced, it would probably have been possible for the Canadian Government to have discussed the matter with the Provinces, and possibly to have reached an agreement.

THE CHAIRMAN said that the question how to give effect to the Report was really one of high policy, which perhaps it would be best to leave to the Heads of Delegations to settle. The Committee could suggest the various methods . . . .

#### 184.

*Extraits du procès-verbal du comité des relations intra-impériales*  
*Extracts from Minutes of Committee on Inter-Imperial Relations*

Tenth Meeting

October 27, 1930

SECRET

...

#### REPORT ON OPERATION OF DOMINION LEGISLATION

2. MR. BRENNAN stated that he had gained the impression that the recommendations of the 1929 Report were regarded by the Imperial Conference as of very great importance, and he had already expressed the opinion that, unless some definite action were taken at this Conference, the Conference would stand convicted of inaction in regard to the vital matters dealt with by the Conferences of 1926 and 1929. In his view, the fact that the Colonial Laws Validity Act remained on the Statute Book would be in flat contradiction to previous decisions. As a result of informal discussion with other members of the Conference, he proposed to submit certain recommendations crystallising briefly what he understood to be in their minds and what was certainly in the minds of the Australian delegation. He appreciated the political difficulties of the Government of the United Kingdom, which had already been explained to the Committee. These were, in the last resort,

matters for solution by the Government of the United Kingdom. The Committee had also heard a frank statement of the difficulties of Canada, and he appreciated the endeavour of the Canadian delegation to meet the views of other delegations. He would ask the Committee not to depart so far from the recommendations of the 1929 Report as merely to adopt a permissive form of legislation, and he considered that, if and when the United Kingdom could introduce legislation, this should be done. He suggested that the first definite action should be to approve the 1929 Report, which had already been discussed in the Parliaments of Canada, the Union of South Africa and the Irish Free State, and which the Australian representatives were prepared to approve, so far as their approval extended. He therefore proposed the following procedure:

(1) That the Committee recommend that the Conference approve the Report of the O.D.L. Conference of 1929.

(2) That a Sub-Committee, consisting of a legal expert from each Dominion, be appointed to prepare a draft of a Statute of Westminster in accordance with the Report of the O.D.L. Conference, with the form of a preamble that will recite the relevant facts as to the approval of the Dominions at the time of the passing of the Statute.

(3) That the Parliament at Westminster be invited to pass the Statute in due course.

In reply to a question by the Lord Chancellor, Mr. Brennan stated that the form of preamble contemplated in paragraph 2 above might read somewhat as follows:

Whereas the enactments and declarations contained in this statute have been approved by (here set out names of Dominions to which this applies).

And whereas the said enactments and declarations, excepting . . . have been approved by (here set out names of Dominions, if any, to which this applies).

MR. READ stated that, in view of the action of Canadian House of Commons, the Canadian delegation did not wish to take any action to prevent the coming into force of the 1929 Report. It was, however, not necessary or possible for them to commit themselves on paragraphs 1 and 3 of Mr. Brennan's draft. He agreed, however, with paragraph 2. He pointed out that, so far as Canada was concerned, the approval contemplated in paragraph 2 could not be given during the present Conference, since it involved both consultation with the Canadian Provinces and the approval of the Canadian Parliament . . .

It was decided to refer to the drafting committee already appointed the question of preparing the draft of a Statute of Westminster in accordance with the Report of the 1929 Conference . . .

185.

*Extraits des procès-verbaux des réunions des Premiers ministres  
et des Chefs de délégation*

*Extracts from the Minutes of Meetings of Prime Ministers  
and Heads of Delegations*

Twelfth Meeting

October 31, 1930

SECRET

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3. The Prime Ministers and Heads of Delegations had before them a draft Report prepared for consideration by Lord Sankey's Committee on Certain Aspects of Inter-Imperial Relations, circulated under cover of a Note by Lord Sankey (E. (30) 34), in which it was explained that the Committee had felt that there was not time to consider the Report and had accordingly decided that it should be sent forward to the Heads of Delegations with a covering Note to this effect.

The first Section of this Report, dealing with the Report of the Conference on the Operation of Dominion Legislation, was then discussed, and, more particularly, the following recommendations in paragraph 4:

(i) The Conference approves the Report of the Conference on the Operation of Dominion Legislation.

(ii) The Conference recommends that, as soon as such preliminary steps as may be thought necessary by each of the Dominions wishing the proposed legislation wholly or in part to apply to it have been taken, legislation be submitted to the Parliament of the United Kingdom in accordance with the wishes of such Dominions and with the suggestions of the Conference on the Operation of Dominion Legislation as set out more particularly in the schedule hereto.

While, at the Chairman's suggestion, no formal Resolutions were adopted pending a further Meeting of Lord Sankey's Committee, the trend of the discussion was in favour of a procedure in regard to the implementing of the Report on the Operation of Dominion Legislation which may be summed up as follows:

(1) The Imperial Conference should recommend with unanimity the Report of the Conference on the Operation of Dominion Legislation and Merchant Shipping Legislation, 1929, for adoption by each of the Governments of the British Commonwealth of Nations.

(2) After the expiration of the Imperial Conference time should be given for those of the Dominions which have not already done so to consult their Parliaments in regard to the Report and for all the governments to take the appropriate action to be specified in the draft Statute of Westminster, in order to enable His Majesty's Government in the United Kingdom to introduce the Statute of Westminster Bill.

(3) The length of the time-limit should be adjusted to meet the requirements of the various Governments represented at the Imperial Conference.

(4) After each of the Dominions has taken the action referred to above, or, alternatively, at the end of the specified period, even though some of the Dominions have not taken such action, His Majesty's Government in the United Kingdom should introduce the Statute of Westminster in the United Kingdom Parliament.

In order to give the best assurance possible that the above procedure would be followed by His Majesty's Government in the United Kingdom, the Prime Minister of the United Kingdom expressed his willingness, as soon as decisions were reached on the subject, to communicate with the Leaders of the Opposition Parties, with a view to obtaining their agreement, and to make an announcement in Parliament on the subject.

It was agreed—

(a) That Lord Sankey's Committee on Certain Aspects of Inter-Imperial Relations should be asked to examine and re-present, with any necessary modifications, the draft of the Statute of Westminster in the light of the discussion at this Meeting.

(b) That the Conclusions in paragraph 4 of the draft Report of Lord Sankey's Committee should also be re-drafted.

(c) That Lord Sankey's Committee should present its Report on the above Terms of Reference not later than Tuesday evening, the 4th November, with a view to the circulation of the Report on Wednesday, the 5th November, and its consideration on Thursday the 6th November, at a Meeting of the Prime Ministers and Heads of Delegations.

. . .

186.

*Extraits des procès-verbaux des réunions des Premiers ministres  
et des Chefs de délégation*

*Extracts from Minutes of Meetings of Prime Ministers  
and Heads of Delegations*

Fourteenth Meeting

November 3, 1930

SECRET

The Prime Ministers and Heads of Delegations had before them the draft Report (E. (30) 34) which had been prepared by a Drafting Committee for the consideration of the Committee on Certain Aspects of Inter-Imperial Relations, and which, at the last Meeting, it had been agreed should be considered by the Prime Ministers and Heads of Delegations.

1. After a short discussion in regard to the order in which the business of the Agenda should be taken, the Prime Ministers and Heads of Delegations opened their discussion on the subject of the proposed Commonwealth Tribunal, and agreed—

To approve this section of the Report, subject to the following . . . .<sup>1</sup>

2. As the result of a short preliminary discussion in regard to the Report of the Sub-Committee on Merchant Shipping, it was agreed—

To defer the question pending consideration by the Canadian Delegation and the Irish Free State Delegation of the reserves entered by them respectively at the end of the Sub-Committee's Report.

3. The passage of the Report dealing with the System of Communication and Consultation in relation to Foreign Affairs was then discussed and approved, subject to the following:

(a) Paragraph 1 (1) to be amended to read as follows:

Any of His Majesty's Governments conducting negotiations should inform the other Governments of His Majesty *in case they should be interested* and give them the opportunity of expressing their views, if they think that their interests may be affected.

(Note.—It was clearly understood that the words inserted, namely, "in case they should be interested," did not involve that the Government conducting the negotiations was expected to make a selection as to which of the other Governments members of the Commonwealth of Nations might be interested.)

(b) As regards paragraph 1 (2), in laying down that any of His Majesty's Governments desiring to express their views on information received from another of His Majesty's Governments should do so *with reasonable promptitude*, it should be understood that the Government giving the information should allow as much time as possible for reply.

(c) As regards paragraph 1 (3), the representatives of the Irish Free State reserved the right to reopen this article if, after further consideration, they deemed it necessary.

(Note.—The question of making corresponding arrangements for communicating information in the case of negotiations between a Dominion and a Colony, Protectorate or Mandated Territory, was reserved for consideration separately on some more convenient occasion.)

4. The Prime Ministers and Heads of Delegations then turned to the section of the Report dealing with the Channel of Communication between Dominion Governments and Foreign Governments, which was accepted, subject to the following:

(a) That this section of the Report should not be published verbatim. That in particular the definition of the subjects on which it was agreed that communications should pass direct between His Majesty's Governments in the Dominions and the Ambassador or Minister concerned should, in the published version, be abbreviated and condensed.

<sup>1</sup> Pour la section telle qu'amendée voir M. Ollivier, *op. cit.*, pp. 246-247.

<sup>1</sup> For the section as amended see M. Ollivier, *op. cit.*, pp. 246-247.



(b) The Prime Minister of the United Kingdom should enquire and report what the practice is as regards direct communication by an Ambassador or diplomatic representative of the United Kingdom to a Dominion Prime Minister of copies of Despatches.

5. On the suggestion of the Prime Minister of Canada it was agreed—

That the Secretary should reproduce each section of the Report as soon as its discussion is completed, in the amended form, and circulate it to the different Delegations so that they might read the Report as a whole before the termination of the Conference.

6. MR. MCGILLIGAN asked the Prime Ministers and Heads of Delegations to take note that the Irish Free State Delegation's agreement to the various matters settled at the present Meeting was in every case provisional, pending the completion of the review of the whole question of Inter-Imperial Relations, including the Judicial Committee of the Privy Council, since in their view all these questions were interrelated . . . .

187.

*Extraits des procès-verbaux des réunions des Premiers ministres  
et des Chefs de délégation*

*Extracts from Minutes of Meetings of Prime Ministers  
and Heads of Delegations*

Fifteenth Meeting

November 3, 1930

SECRET

1. The Prime Ministers and Heads of Delegations continued the discussion begun at the meeting in the morning on the section of the Report (Paper E. (30) 34) prepared by the Drafting Sub-Committee of Lord Sankey's Committee on the subject of Phraseology in Official Documents, and in this connection had before them a Paper (E. (I.R.) (30) 2) on the use of the title "His Britannic Majesty," for the terms of which see Appendix I. After considerable discussion it was agreed—

(i) That as regards the use in official documents of the title "His Britannic Majesty", the *status quo* in relation to each of the Dominions should be maintained on the understanding that in practice the use of the expression would be restricted within the narrowest possible limits.

(ii) That no reference to this question should be inserted in the Report of the Conference, and that the subject should not be mentioned in any published proceedings of the Conference.

4. The Prime Ministers and Heads of Delegations were informed by the Lord Chancellor of the results of the Meeting that morning of the Committee on Certain Aspects of Inter-Imperial Relations, which had considered the

Draft Statute of Westminster in accordance with the request of the Prime Ministers and Heads of Delegations at their Meeting on Friday, the 31st October, 1930, at 10.30 a.m.

Some discussion took place with regard to the date from which the Statute of Westminster should come into operation, and the procedure to be followed prior to the introduction of the Bill into the United Kingdom Parliament. Emphasis was laid on the importance of securing that the resolutions to be passed by the Dominion Parliaments should reach the United Kingdom as early as practicable if the Statute of Westminster was to become law by the 1st December, 1931.

The Secretary of State for Dominion Affairs assured the Prime Ministers and Heads of Delegations that the United Kingdom Government would make every effort to secure the passage of the Bill into law as soon as possible after the above-named resolutions had been received.

It was agreed—

(1) That the 1st December, 1931, should be the date as from which the Statute of Westminster should become operative.

(2) That with a view to the realisation of this arrangement, Resolutions passed by both Houses of the Dominion Parliaments should be forwarded to the United Kingdom if possible by the 1st July, 1931, and in any case not later than the 1st August, 1931, requesting the enactment by the Parliament of the United Kingdom of legislation on the lines of the Statute of Westminster Bill.

(3) That if Lord Sankey's Committee reached agreement regarding the insertion in the fourth recital of the Bill after the word "Dominions" of the words "as a part of the law of such Dominion," the Prime Ministers and Heads of Delegations would approve and adopt such agreement.

...

## APPENDIX I

### THE USE OF THE TITLE "HIS BRITANNIC MAJESTY"

In the text of treaties concluded in the name of His Majesty the King, in diplomatic correspondence where reference is made to His Majesty, and in the title of His Majestys' diplomatic and consular officers in foreign countries, it is often found convenient to employ a shorter phrase than the King's full title, and it has been the long-established practice to employ in such cases the title "His Britannic Majesty." In order to avoid any possible misunderstanding, it seems desirable to place it on record that this title, when used in such circumstances, is to be interpreted in precisely the same sense as the full title of His Majesty as set out in the Report of the Imperial Conference of 1926, and subsequently declared by Royal Proclamation.

188.

*Extraits des procès-verbaux des réunions des Premiers ministres  
et des Chefs de délégation*

*Extracts from Minutes of Meetings of Prime Ministers  
and Heads of Delegations*

Sixteenth Meeting

November 4, 1930

SECRET

...

2. A general discussion took place upon the method of appointment of a Governor-General of a Dominion.

MR. THOMAS read a Memorandum on the subject, originally prepared by the Delegation of the Union of South Africa and afterwards discussed by the Drafting Committee of Lord Sankey's Committee on Certain Aspects of Inter-Imperial Relations, who had made certain alterations.

(A copy of this Memorandum is attached in Appendix I.)

During a short adjournment, copies of the above document were obtained from the Secretariat and circulated.

The discussion focussed mainly on the third paragraph, viz:

The Ministers who tender and are responsible for such advice are His Majesty's Ministers in the Dominion concerned.

and on the following alternative suggested by the Irish Free State Delegation, viz.:

The Ministers responsible for such advice and therefore exclusively entitled to tender such advice are His Majesty's Ministers in the Dominion concerned.

MR. SCULLIN was prepared to accept the draft in Appendix I subject to the omission from paragraph 4 of the word "only."

(This amendment was agreed to.)

It was agreed to record—

That the responsibility for the advice tendered to His Majesty was exclusively that of His Majesty's Government in the Dominion concerned. This is fundamental and does not admit of any doubt.

Subject to this interpretation recorded on the Minutes, MR. MCGILLIGAN expressed his acceptance of paragraph 3.

The Prime Ministers and Heads of Delegations were in general agreement with the procedure suggested in the document attached in Appendix I . . . .

## APPENDIX I

## APPOINTMENT OF A GOVERNOR-GENERAL OF A DOMINION

Having considered the question of the procedure to be observed in the appointment of a Governor-General of a Dominion in the light of the alteration in his position resulting from the Resolutions of the Imperial Conference of 1926, we have come to the conclusion that the following statement in regard thereto would seem to flow naturally from the new position of the Governor-General as representative of His Majesty only:

1. The parties interested in the appointment of a Governor-General of a Dominion are His Majesty the King, whose representative he is, and the Dominion concerned.

2. The constitutional practice that His Majesty acts on the advice of responsible Ministers applies also in this instance.

3. The Ministers who tender and are responsible for such advice are His Majesty's Ministers in the Dominion concerned.

4. The Ministers concerned tender their formal advice after informal consultation with His Majesty.

5. The channel of communication between His Majesty and the Government of any Dominion is a matter solely concerning His Majesty and such Government. His Majesty's Government in the United Kingdom have expressed their willingness to continue to act in relation to any of His Majesty's Governments in any manner in which that Government may desire.

6. The manner in which the instrument containing the Governor-General's appointment should reflect the principles set forth above is a matter in regard to which His Majesty is advised by His Ministers in the Dominion concerned.

189.

*Extraits des procès-verbaux des réunions des Premiers ministres  
et des Chefs de délégation*

*Extracts from Minutes of Meetings of Prime Ministers  
and Heads of Delegations*

Seventeenth Meeting

November 4, 1930

SECRET

...

2. The Prime Ministers and Heads of Delegations had before them a Report by the Committee on Arbitration and Disarmament (E. (A.D.) (30) 6, Revised), dealing with the following questions:

(1) General Act for the Pacific Settlement of International Disputes.

(2) The Draft Disarmament Convention.

### (3) Amendments to the Covenant of the League of Nations.

The Secretary of State for Foreign Affairs said he had been asked by Mr. Dupré, the Chairman of the Committee, who was unwell, to report on his behalf, and to say that general agreement had been reached on the three points discussed in the Report. As the New Zealand representatives were not yet present, he suggested that the Report might be accepted subject to their agreement later.

In conclusion it was agreed—

(a) That the Report by the Committee on Arbitration and Disarmament (E. (A.D.) (30) 6, Revised) should be accepted, subject to the concurrence of the New Zealand representatives.

(b) That the Secretary of State for Foreign Affairs should prepare a suitable condensed version of the Report for presentation to a Plenary Session and inclusion in the Report of the Imperial Conference.

(Later.) SIR THOMAS SIDNEY arrived towards the end of the Meeting and pointed out that New Zealand had objected to acceding to the General Act unless it was made perfectly clear that the subject-matter of immigration was included in the reservation as to domestic jurisdiction. New Zealand was now prepared, however, to waive this objection, on the understanding that words would be included in the Report of the Conference from which it could clearly be inferred (in the event of the question being raised) that in the minds of the Conference the subject-matter of immigration was a matter of domestic jurisdiction. For this purpose it was thought that some such words as the following might be used:

Because of the importance that is attached by many members of the Committee to the subject-matter of immigration, the Committee considered it advisable that the reservation as to domestic jurisdiction should be retained.

MR. SCULLIN said that Australia also was interested in the question of immigration. They had already secured some agreement that immigration was a domestic question. He had not the precise facts in front of him, but his impression was that it had either been secured only by a small majority or that the majority against it had not been sufficient to prevail. There was some risk in calling attention to a question that had been decided by such a narrow margin.

THE CHAIRMAN pointed out that the question was a delicate one, owing to its effect on Japan. He proposed that the attention of the Secretary of State for Foreign Affairs should be drawn to the point raised by Sir Thomas Sidney in order to see what he could do to give effect to it.

(This was agreed to.)



190.

*Extraits des procès-verbaux des réunions des Premiers ministres  
et des Chefs de délégation*

*Extracts from Minutes of Meetings of Prime Ministers  
and Heads of Delegations*

Twentieth Meeting

November 10, 1930

SECRET

...

3. The Prime Ministers and Heads of Delegations continued the discussion, commenced at the meeting referred to in the margin, of the Section of the draft Report of Lord Sankey's Committee (Paper E. (30) 34) dealing with Merchant Shipping. In the course of discussion the Prime Minister of Canada reaffirmed the statement made by him on the previous occasion, that his acceptance of the Report as a whole, including the Draft Agreement, must be subject to ratification by the Canadian Parliament. SIR G. CORBETT, on behalf of India, stated that he desired to make the same reservation, *videlicet*, that acceptance by the Indian Representatives must be subject to ratification thereafter by the Government of India.

Subject to the above reservations, it was agreed—

To adopt the Section of the draft Report of Lord Sankey's Committee (Paper E. (30) 34) dealing with Merchant Shipping and the Draft Agreement appended to that draft Report in the form in which these documents were submitted by Lord Sankey's Committee to the Prime Ministers and Heads of Delegations.

In accepting this conclusion MR. MCGILLIGAN intimated that the legislation to be passed by the Parliament of the Irish Free State would be such that Irish Free State vessels would not be able to secure recognition as British ships.

4. MR. MACDONALD reminded the Prime Ministers and Heads of Delegations that, at the meeting referred to in the margin, it had been agreed to place on record that "the Prime Ministers and Heads of Delegations reached no decision on the question of *Inter se* Applicability of International Conventions, but that it would be open to any delegation to ask that this question should be further considered at a subsequent meeting if, in the meantime, any solution of the difficulty could be found which seemed likely to meet with general acceptance." Mr. MacDonald suggested that the above decision should stand on the understanding that it would be open, until the conclusion of the Conference, for any Delegation to bring forward an agreed solution if one should be found.

(This was agreed to.)

5. The Prime Ministers and Heads of Delegations had before them memoranda prepared by His Majesty's Government in the Union of South Africa

and by His Majesty's Government in the Commonwealth of Australia (Papers Nos. E. (30) 13 and E. (30) 33 respectively) on the subject of the Great Seal and Signet.

MR. MCGILLIGAN brought before the Conference a paper attached to the Report of the Committee on Seals and presented to that Committee as a statement of the views of the Irish Free State Government on this matter.

MR. MACDONALD made a special appeal to all present to endeavour in this matter to alter as little as possible the existing procedure and machinery, which had old historical associations very highly valued by persons in this country and overseas.

It was agreed—

That no reference to the question of the Great Seal and Signet should be included in the Report of the Conference.

(A Note of the above discussion is attached as Appendix II to these Minutes<sup>1</sup>.)

The Prime Ministers and Heads of Delegations had before them a memorandum (Paper No. E. (30) 14) entitled, "Ratification of Treaties and Issue of Full Powers," prepared by His Majesty's Government in the Union of South Africa.

It was agreed—

That no reference should be made in the Report of the Conference to the question of the Issue of Full Powers.

The Prime Ministers and Heads of Delegations had before them a Memorandum (Paper No. E. (30) 15) by His Majesty's Government in the Union of South Africa on the question of the Issue of Exequaturs to Foreign Consuls.

It was agreed—

That no reference should be made in the Report of the Conference to the question of the Issue of Exequaturs to Foreign Consuls.

The Prime Ministers and Heads of Delegations resumed their consideration of the question of the appointment of Governors-General, to which reference is made in the margin. In the course of a brief discussion, the Secretary of State for Dominion Affairs suggested that the position might be stated as follows<sup>2</sup> . . . .

After some discussion, it was agreed—

(1) That the report of the Conference should include a statement regarding the appointment of Governors-General on the lines of the Statement set out above.

<sup>1</sup> Non reproduite.

<sup>2</sup> L'exposé se trouve en Appendice I au document 188.

<sup>1</sup> Not printed.

<sup>2</sup> The statement was that in Document 188, Appendix I.

(2) That no reference should be made in the Report to the question of the channels of communication between His Majesty the King and the Ministers in the Dominions.

The Prime Ministers and Heads of Delegations also took note of the following observations regarding the payment of passage allowances to Governors-General:

It has been the general practice in the past for payment to be made from moneys voted by the United Kingdom Parliament in respect of passage allowances to Governors-General when they first take up their appointments and at the end of their term of office. This provision, of course, dates back to the time when Governors-General were appointed exclusively from the United Kingdom, and were responsible to His Majesty's Government in the United Kingdom. It was thought that payment from United Kingdom funds would, in principle, no longer be in accord with the status of Governors-General as laid down in 1926. This would not, of course, prevent continuance, if desired, of any special arrangements which might be come to by agreement with the Dominion concerned in any particular case,

and agreed that no reference to this matter need be included in the Report of the Conference.

6. The Prime Ministers and Heads of Delegations had before them a Memorandum (Paper E. (30) 31) by the Secretary of State for Dominion Affairs on the question of the Status of High Commissioners.

It was agreed

That the question of the precedence of High Commissioners for the Dominions in London was one on which His Majesty's Pleasure should be taken.

...

## 191.

*Extraits des procès-verbaux des réunions des Premiers ministres  
et des Chefs de délégation*

*Extracts from Minutes of Meetings of Prime Ministers  
and Heads of Delegations*

Twenty-first Meeting

November 10, 1930

SECRET

1. With reference to their discussion at the previous meeting of the question of Nationality, the Prime Ministers and Heads of Delegations had before them the draft paragraphs prepared by Mr. Scullin, which he suggested should be substituted for the section dealing with Nationality in the draft Report of Lord Sankey's Committee (Paper No. E. (30) 34.)

After considerable discussion, it was eventually agreed—

(i) To adopt the draft paragraphs on Nationality prepared by Mr. Scullin, subject to the modification of paragraph 2—

(a) by the insertion of the words "and agreement" after the word "consultation" in line 5;

(b) by the deletion of the concluding sentence of that paragraph "and the necessary legislation in each part of the Commonwealth should subject to prior agreement."

(ii) That the paragraphs as so amended should be incorporated in the Report of the Conference in substitution for the Nationality section of the draft Report of Lord Sankey's Committee.

(Note.—For the Nationality paragraphs as adopted by the Prime Ministers and Heads of Delegations, see Appendix I.)

2. The attention of the Prime Ministers and Heads of Delegations was drawn by MR. MCGILLIGAN to the wording of Resolution 4(2) relating to the Statute of Westminster Bill in the Minutes mentioned in the margin.

After some discussion, it was agreed

The words "with a view to" should be substituted for the word "requesting" in line 6 of this conclusion, which will accordingly read as follows:

(2) "That with a view to the realization of this arrangement, Resolutions passed by both Houses of the Dominion Parliaments should be forwarded to the United Kingdom, if possible, by the 1st of July, 1931, and, in any case, not later than 1st August, 1931, with a view to the enactment by the Parliament of the United Kingdom of legislation on the lines of the Statute of Westminster Bill.

3. The Prime Ministers and Heads of Delegations resumed the discussion of the question of the Judicial Committee of the Privy Council which was last under consideration at their meeting on the 5th November, 1930, referred to in the margin.

At the outset of the discussion MR. SCULLIN emphasised the importance of reaching some compromise on this question and stated that Mr. Brennan was engaged in the preparation of a formula which, it was hoped, might prove generally acceptable. In the course of discussion, MR. MCGILLIGAN informed the meeting that it was the intention of the Government of the Irish Free State to introduce legislation in the Irish Free State Parliament within the next few months abolishing the right of appeal to the Privy Council in the case of residents in the Free State.

MR. MACDONALD observed that, if the Irish Free State introduced such legislation, it must not be assumed that the Government of the United Kingdom approved of or agreed with such introduction. The position of the United Kingdom Government had been made plain in the course of the discussions which had taken place on this subject at the meetings of the Prime Ministers and Heads of Delegations. That Government had no intention of diminishing in the slightest degree the declaration of 1926 on the subject, but had made it clear that they could not disregard the contract embodied in the Treaty. The

United Kingdom Government desired to effect a settlement of this question satisfactory to all parties, but they could not assent to acceptance by the Conference of a declaration made by one of the parties to the Treaty of what the terms of the Treaty meant.

The Government of the United Kingdom were willing that the question at issue should be submitted to the Commonwealth Tribunal or to any special Tribunal which might be agreed upon by the parties on condition that the persons composing it were men of ability, repute and competence.

MR. MCGILLIGAN explained to the meeting the reasons which made it impossible for the Irish Free State Delegation to agree to the reference of this question to the Commonwealth Tribunal or to any other form of arbitration.

After considerable further discussion, it was not found possible at the meeting to reconcile the different points of view, and accordingly it was agreed—

That it should be recorded that the Prime Ministers and Heads of Delegations reached no conclusion on the question of the Judicial Committee of the Privy Council, but that it would be open to any Delegation to ask that this question should be further considered at a subsequent meeting if, in the meantime, any solution of the difficulty could be found which seemed likely to meet with general acceptance.

...

5. GENERAL HERTZOG informed the Prime Ministers and Heads of Delegations that, in the course of discussion on paragraph 60 of the Report of the Conference on the Operation of Dominion Legislation in the Parliament of the Union of South Africa, General Smuts had urged that the acceptance of the Constitutional Convention set out in that paragraph closed the door on the contention that it is open to a member of the Commonwealth to secede from the Commonwealth. In his (General Hertzog's) view, the paragraph in question was open to no such interpretation. In the course of the debate, an amendment to the original motion had been proposed in the following terms:

Provided that section 60 of the Report shall not be taken as derogating from the right of any member of the British Commonwealth of Nations to withdraw therefrom.

The original motion so amended was adopted by Parliament.

GENERAL HERTZOG did not ask the Conference to express any opinion on the matter, but, in accepting the Report of the Conference on the Operation of Dominion Legislation, he desired that there should be recorded the above Resolution of the Parliament of the Union of South Africa on this point.

6. The Prime Ministers and Heads of Delegations discussed briefly the question of the formula which should be used in their Report with regard to the approval by the Conference of the report of the Conference on the Operation of Dominion Legislation.



Among other suggestions, it was proposed that such approval should be "subject to the decisions taken by this Conference and embodied in this Report," or that the phrase should read "subject to any Resolutions (or decisions) contained in this Section of the Report".

It was agreed—

To request the Secretariat to have regard to the discussion in preparing a formula for inclusion in the Report.

## APPENDIX I

### NATIONALITY

Our conclusions are as follows:

1. That the Conference affirms paragraphs 73 to 78 inclusive of the Report of the Conference on the Operation of Dominion Legislation.

2. That, if any changes are desired in the existing requirements for the common status, provision should be made for the maintenance of the common status, and the changes should only be introduced (in accordance with present practice) after consultation and agreement among the several Members of the Commonwealth.

3. That it is for each Member of the Commonwealth to define for itself its own nationals, but that, so far as possible, those nationals should be persons possessing the common status, though it is recognised that local conditions or other special circumstances may from time to time necessitate divergences from this general principle.

4. That the possession of the common status in virtue of the law for the time being in force in any part of the Commonwealth should carry with it the recognition of that status by the law of every other part of the Commonwealth.

192.

*Extraits des procès-verbaux des réunions des Premiers ministres  
et des Chefs de délégation*

*Extract from Minutes of Meetings of Prime Ministers  
and Heads of Delegations*

Twenty-second Meeting

November 11, 1930

SECRET

2. MR. THOMAS said that the position of the Great Seal had been left in a rather unsatisfactory position. . . .

(A Note of this discussion is attached as Appendix II.) . . .

## APPENDIX II

*Note of Discussion*

MR. THOMAS asked leave to raise again the question of the Great Seal. The result of the position as it was left on the preceding day would be that some Dominions would be following one procedure and others another. He understood the attitude of General Hertzog to be that he appreciated the value which some of them attached to the Great Seal for historical and sentimental reasons, and would endeavour to meet their views as far as possible. He desired to make this appeal to the Dominion representatives. They in the United Kingdom had endeavoured to put themselves as far as possible into the position of the Dominion representatives. They never forgot the difficulties of South Africa, and they had tried throughout to appreciate the position of the Irish Free State representatives. But they had also their own position to consider. They found themselves in the situation of a minority Government giving effect to decisions to which they were not originally a party. By a Minute of the preceding day they had thrown the bias on the side of the theory of the divisibility of the Crown. Hitherto they had avoided any decision which came down on one side or other of the question whether there were one or seven kings, but by the decision arrived at on the preceding day, they would be throwing the bias on the one side. He wondered whether it would not be better to say nothing at all about the question on the Minutes, but to leave things in *statu quo*. To do so would greatly help the United Kingdom representatives in their domestic situation, and especially as regards the proposed Statute of Westminster.

MR. BENNETT saw serious difficulties in the implications that might be drawn from their decision. The one thing which bound them all together was a common Sovereign and common allegiance, and he thought that it might be worth thinking about whether it might not be desirable to have a Commonwealth Seal, leaving the present Great Seal to be used in future as a purely United Kingdom Seal. He was not committed to the proposal, but he thought that it merited consideration. In all the circumstances he hoped that they could agree to allowing the *status quo* to continue for a time.

GENERAL HERTZOG stated that his inclination was against Mr. Bennett's proposal. He thought that it would give rise to the same fears as proposals, for example, for the establishment of a central secretariat in London, viz., that they were setting up a unitary State. He did not offer any objection to deleting the discussion from the Minutes of the previous day.

MR. MCGILLIGAN said that he would prefer not to delete the Minutes. He stated that the general view of the Irish Free State Government was that the manner in which the King's signature was confirmed was for the Government concerned to decide.

MR. MACDONALD summed up the conclusions as follows:

- (a) The Minutes of the discussion on the Great Seal at the Meeting of Prime Ministers and Heads of Delegations on the previous day (P.M. (30) 20) should not be deleted.

(b) No allusion to the discussions on the Great Seal should be made in the published Report of the Conference.

(c) The subject should be postponed, on the understanding that the whole question should be reviewed at the next Imperial Conference.

193.

*Extraits des procès-verbaux des réunions des Premiers ministres  
et des Chefs de délégation*

*Extracts from Minutes of Meetings of Prime Ministers  
and Heads of Delegations*

Twenty-third Meeting

November 11, 1930

SECRET

1. MR. RAMSAY MACDONALD read a draft statement on Economic Policy to the meeting, explaining that it had been prepared by the Delegates of the United Kingdom in a form suitable for adoption by the Imperial Conference. It was still subject to confirmation by the Cabinet. He suggested that those present might wish to have time to study this document, but that in the meantime they might care to ask questions with regard to particular points. He asked that the document should be treated as highly confidential. Various questions were then raised in connection with the statement . . .

It was agreed—

To defer further consideration of the proposed statement until those present had had further time in which to consider it.

...

2. The Prime Ministers and Heads of Delegations then turned to consider the report of the Committee on Economic Co-operation (Paper E.E. (30) 62) . . .

(A Note of the discussion is contained in Appendix II to these Minutes.) . . .

## APPENDIX I

VERY SECRET

### IMPERIAL ECONOMIC POLICY

*Draft Statement prepared by the Delegates of the United Kingdom*

I. The Imperial Conference is satisfied that inter-Imperial trade preferences have been a recognition of unity and an assistance to producers in various parts of the Empire. Believing that the development of inter-Imperial markets is of the utmost importance to the Commonwealth, the Conference takes note:

(a) That in this development each of the Commonwealth nations has declared that it must primarily consider its own economic interests, though all are convinced that this does not preclude helpfulness in providing markets.

(b) That the Delegates of the United Kingdom have declared that the interests of the United Kingdom preclude any international economic policy, like tariffs, which would injure its foreign trade or would impose duties upon food or raw material; the Dominion Governments have declared that the interests of the Dominions necessitate a tariff policy intended to encourage the growth of manufacturing industry.

(c) That the United Kingdom Delegates have declared that their fiscal policy does not preclude marketing propaganda and organisation which will secure valuable opportunities for the consumption of Dominion products in the United Kingdom; the Delegates from the Dominions, on the other hand, have declared that outside the protection which they practise in their own interests there are great opportunities for the use of United Kingdom manufactures in their countries.

II. This problem of mutual accommodation has to be considered in definite detail, and the study which has been given to it by Ministers of Trade and Commerce and Committees of Experts has shown that in the time available definite decisions cannot be reached. The Conference therefore suggests that the Governments concerned should undertake to make forthwith a close examination of the various methods by which each may make the greatest possible contribution to economic co-operation within the Empire with a view to presenting reports to a Conference which will be held in Ottawa next year so soon as the reports are ready.

III. In the meantime the Conference agrees to recommend—

(a) That the existing preferential margins should not be reduced for a period of three years or pending the outcome of the proposed Conference, subject to the rights of the Parliaments to fix their own budgets from year to year; and

(b) That the Governments of the several parts of the Empire should examine in detail their existing tariffs, in conjunction with the interests concerned, with a view to considering what modifications can be made tending to increase the amount of inter-Imperial trade.

IV. The Conference is of opinion that the Empire Marketing Board should be reconstituted as a body with a fixed minimum annual income, with a provision enabling it to receive such other contributions from public or private sources as it may be willing to accept, for the purpose of furthering the marketing of Empire products.

V. The Conference agrees to reconstitute the Imperial Economic Committee on the lines recommended by the Committee of the Conference on Economic Co-operation.

November 10, 1930

...

## APPENDIX II

DISCUSSION ON THE REPORT OF THE COMMITTEE ON ECONOMIC  
CO-OPERATION

MR. RAMSAY MACDONALD said that Section I of the Report of the Committee on Economic Co-operation contained a discussion of the question of introducing a quota on wheat in the United Kingdom. He thought it would be best to refer this report and the others on bulk purchases, &c., which reached no conclusions, for examination by the Imperial Economic Committee, the extension of which was suggested in Section IV of the Report. There were one or two important considerations which His Majesty's Government in the United Kingdom would also wish the Committee to examine in this connection.

MR. MOLONEY said he did not think Mr. MacDonald's statement as to the inconclusiveness of the report on the wheat quota was in accordance with the situation. This subject had been gone into very fully and the report dealt with all the difficulties which had been suggested. He thought that the Committee would have adopted the scheme, but this would have been outside their terms of reference. The report indicated that a quota for wheat would be beneficial to the wheat exporting Dominions. The only passage in the report which suggested further investigation was that towards the end of paragraph 11 setting out the considerations which arose in regard to flour. The Australian Delegation wished to suggest a change in the wording of the last two sentences in paragraph 11 so that they should read:

The divergent interests of millers and of flour importers would require to be protected in the framing of legislation which would be required to give effect to the plan, thus ensuring that no action would be taken to prejudice the important trade in Dominion flour. It would probably be desirable that the arrangements in connection with imported flour should be planned in consultation with the trade interests concerned.

MR. RAMSAY MACDONALD pointed out that there was an earlier passage in paragraph 11 drawing attention to the difficult considerations which arose in connection with imported flour.

MR. GRAHAM said that it had been clearly understood by all the members of the Committee on Economic Co-operation that they could not bind their respective Delegations. He thought there was no doubt that it was the Committee's view that the greatest difficulty in the administration of a quota would arise in connection with imported flour. He thought that paragraph 11 as it was printed in Paper E.E. (30) 62 was generally as agreed by the Committee. He saw no substantial difference between the terms of the last two sentences in that paragraph in the print and the alternative draft suggested by Mr. Moloney, but he was quite prepared to have Mr. Moloney's draft substituted for that in the print.



MR. RAMSAY MACDONALD said that the function of the Committee was to examine the question of a wheat quota and the Committee's findings would clearly require the most careful consideration.

MR. STEVENS said that the position was that at earlier meetings of Heads of Delegations, Mr. MacDonald had suggested that proposals alternative to tariffs ought to be examined. The examination by the Committee had disclosed that there would be very great practical difficulties in respect of quota systems for commodities other than wheat, bulk purchase and so on, but that on a wheat quota, it seemed pretty clear that an agreement could be arrived at. He quite agreed that the questions of high policy, including the fixing of the figure of the quota, were outside the competence of the Committee and would have to be determined by Heads of Delegations.

In the Committee he had himself raised the question of imported flour and the Minister of Agriculture had advised that the plan of requiring imported flour to be mixed with flour from the United Kingdom wheat had been abandoned and that the importer would only be required to obtain certificates representing United Kingdom wheat or flour milled from United Kingdom wheat. He had no idea that there was any question of leaving the matter over for further study.

MR. GRAHAM said he had always pointed out at the Committee that none of the Governments were bound or committed by the proceedings of the Committee.

MR. STEVENS agreed, but thought it was the duty of the Heads of Delegations to reach a final decision.

MR. THOMAS said that the Committee considered this question as an alternative to tariffs. The first thing that would arise if a wheat quota was accepted was legislation in the United Kingdom. The Committee's report said that before legislation could be introduced, certain further investigation was necessary.

MR. RAMSAY MACDONALD said that one of the suggestions which had been put forward as an alternative to tariffs was the wheat quota. His recollection was that the Dominions had not been impressed with this suggestion when it had been put forward. The United Kingdom Government had been examining the principle of the quota for some time from the point of view of its effect on agriculture in the United Kingdom. They had liked the idea, but on examination they saw that it would involve far more complicated machinery than had appeared at first sight. Then the question of a quota for Dominion wheat had arisen. His first impression was that the Dominions attached no value to the suggestion. It had however, been referred to a Committee, and the Committee's Report showed that it would be of value to the Dominions. But the machinery necessary for working a quota would be complicated and delicate. He thought the United Kingdom Government must consider the points raised in the Committee's Report and see how far the scheme was

practicable. He had asked that the Report should set out the arguments for and against, but he thought that the survey contained in the Report was not complete.

MR. BENNETT said that in the view of his experts the chief value of the quota was that it ensured a certain market for a given quantity of wheat against the dumping of Russian wheat.

MR. SNOWDEN said that if Russian wheat was excluded from the United Kingdom market, it would find a market elsewhere, and that the effect on world prices would be the same. In these circumstances he did not see of what benefit the quota could be to the Dominions.

MR. RAMSAY MACDONALD said that the report was valuable, but it had revealed no points which the United Kingdom Government had not previously examined. There were several important points which required further examination. Thus, supposing there was a shortage in the world supplies of wheat, would the Dominions guarantee that the quota wheat would be obtained at the world price.

MR. BENNETT said that the report contemplated guarantees against a price above the world price by the power to suspend the quota if necessary.

MR. RAMSAY MACDONALD said that this was one of the points which the United Kingdom Government must seriously consider, *e.g.*, what effective safeguards could be worked out to prevent any undue inflation of prices. It was one thing to say that safeguards would be required, but quite another to devise what those safeguards should be and, indeed, to say whether they could be devised.

MR. STEVENS said that this point had been raised in the Committee and the answer which had been given on behalf of the Ministry of Agriculture was that various methods of meeting this and similar problems had been examined. The impression conveyed to him was that a detailed scheme had been nearly perfected. The Committee's problem was to dovetail a Dominion wheat quota scheme on to the United Kingdom scheme.

MR. RAMSAY MACDONALD said it seemed to him that some of the United Kingdom representatives were so steeped in the subject that perhaps they had not appreciated that the Dominion representatives were unacquainted with many of the difficulties which arose.

MR. MOLONEY enquired why the Committee had been set up if the United Kingdom Government saw insuperable difficulties in the wheat quota scheme.

MR. RAMSAY MACDONALD said that the position was that up to now the difficulties had not been surmounted.

MR. BENNETT said that he had kept in close touch with the proceedings of the Committee, and that he had had the impression that the necessary legislation would be introduced at an early date.

MR. MOLONEY said that his impression was that at least one of the United Kingdom Delegates supported the scheme and thought that all the difficulties

could be overcome by legislation. He would not have consented to serve on the Committee if he had thought that its report would be held over for further examination. He wished to point out that in an earlier draft report before the Committee, the quota scheme had been described as practicable and feasible.

MR. GRAHAM pointed out that this earlier draft had been prepared by the Joint Secretariat, and that he himself had not seen it before it was considered by the Committee. That consideration showed that the draft was generally unacceptable and it had been withdrawn.

MR. SNOWDEN said that the report dealt with the very difficult question of a quota for United Kingdom wheat in twelve lines.

MR. RAMSAY MACDONALD said that the Terms of Reference to the Committee on the question of the quota had been clearly laid down. He thought that they should now refer the subject for consideration by the Imperial Economic Committee to consider along with other things. Meanwhile, the United Kingdom Government would see if a practicable scheme could be worked out with a view to reporting on the subject at a future Conference, probably at Ottawa. His point was, not that the proposal should be turned down, but that it needed further consideration. The importing country must see whether the machinery necessary for working the scheme could be created and whether effective safeguards against the risk of a shortage of wheat could be worked out.

MR. GRAHAM said that the Committee had sat for several weeks. Dr. Addison had put at their disposal information about the scheme for a United Kingdom quota in order to indicate the general outline of the plan. But this statement had been submitted purely for the information of the Committee, and any discussion of the plan of a quota for United Kingdom wheat was clearly outside the Committee's competence. The Committee had analysed the facts regarding a quota scheme for Dominion wheat, and it had been made clear throughout that the United Kingdom Government was not pledged to the principle of the scheme.

MR. RAMSAY MACDONALD said that his proposal was that the quota scheme should be referred to the Imperial Economic Committee, and that, meanwhile, the United Kingdom Government should study it so as to be ready to give their decision when they met again, presumably at Ottawa next year.

GENERAL HERTZOG said that the impression left on his mind was that it was not only futile but fatal to institute enquiries which lead nowhere. He felt that the Committee had been set up to keep them busy rather than to lead to any results.

MR. STEVENS said that he had been disappointed when the Chairman of the Committee had ruled that tariff preferences were outside its Terms of Reference.

MR. RAMSAY MACDONALD said that the position was that there were certain aspects of the question which had not yet been proved to be feasible.

MR. THOMAS said that while the Committee were prepared to consider the scheme as practicable, the decision as to the introduction of legislation clearly rested with the United Kingdom Government.

MR. BENNETT said that the discussion had revealed clearly that there had been a misunderstanding as to the functions of the Committee. He suggested that the difficulty might be met by the insertion of an additional paragraph in the report.

MR. RAMSAY MACDONALD said that the United Kingdom Government could not accept the report as a basis for legislation without further examining the practicability of the scheme. He was surprised that there should have been these misunderstandings.

It was agreed that the Meeting should be resumed at 10, Downing Street at 10 o'clock on the following morning.

194.

*Extraits des procès-verbaux des réunions des Premiers ministres  
et des Chefs de délégation*

*Extracts from Minutes of Meetings of Prime Ministers  
and Heads of Delegations*

Twenty-fourth Meeting

November 12, 1930

SECRET

1. The discussion of the Report of the Committee on Economic Co-operation on the question of a quota for wheat (Paper E.E. (30) 62) was resumed.

MR. RAMSAY MACDONALD said that since the previous meeting the Government of the United Kingdom had considered the position very carefully, and their view was that the whole question must receive further consideration. They proposed therefore that they should undertake to examine the whole question, in all its bearings, with a view to the matter being raised again for joint consideration with the Dominions at a future Conference.

After discussion it was agreed—

(a) That the question of the wheat quota should be further examined in all its bearings by the United Kingdom Government, with a view to the matter being raised again with the Dominions concerned at a future Conference.<sup>1</sup>

(b) That the Report on the wheat quota should be published with other Conference papers, together with a statement as to the action being taken on the Report.

<sup>1</sup> Pour l'amendement à cette conclusion voir le document 196.

<sup>2</sup> For amendment of this conclusion see Document 196.



(c) To take note that the amendment to the Committee's Report asked for by the Australian Delegation had been incorporated.

2. The meeting then considered the document which had been circulated at the previous meeting by the representatives of the United Kingdom Government entitled "Imperial Economic Policy" (Appendix I to P.M. (30) 23)....

A note of the above discussion is annexed to these Minutes....

## APPENDIX

### *Note of Discussion*

...  
MR. SNOWDEN drew attention to the effect of such variation in a case where United Kingdom and Canadian Manufacturers were in competition in the Australian market, and pointed out that a tariff arrangement between Canada and Australia might in such circumstances injure United Kingdom trade with Australia.

MR. BENNETT said that whilst the Canadian preferential tariff extended to almost all parts of the Empire, Australia did not accord their preferential tariff to Canada or to a number of other Dominions. If Australia were to decide to extend their preferential tariff to all parts of the Empire, such action might be prejudicial to the United Kingdom. He did not wish this question to be left to conjecture, but he could not believe that any Dominion would wish to tie its hands in the matter of *inter se* agreements.

MR. RAMSAY MACDONALD said that the Dominions would only be bound until the proposed Conference at Ottawa.

MR. SCULLIN said that if that Conference failed to reach an agreement, the Dominions would be bound for three years.

MR. STEVENS pointed out that two-thirds of the Canadian exports went to Foreign Countries and one-third to the Empire, so that the United Kingdom was not alone in dependence on Foreign trade.

MR. BENNETT said that he felt that care should be taken not to overlook Mr. Havenga's point that certain Dominions could not afford to invite reprisals from Foreign Countries unless they obtained something substantial in return from the United Kingdom.

MR. SNOWDEN enquired what alteration had been made in the Australian tariff on Canadian goods when the recent increase of Australian duties on United Kingdom goods took place.

MR. SCULLIN explained that the Australian duties on Canadian goods were generally the same as those on foreign goods, and that the duties on Canadian goods had been raised in the same manner as those on foreign goods.



MR. BENNETT pointed out that, subject to *inter se* agreements, certain Dominions treated other Dominions as foreign countries. The Canadian preferential tariff covered almost every part of the Empire. The Australian preferential tariff was, however, only applicable to the United Kingdom.

A discussion then took place as to the possibility of exchanging Canadian wheat for United Kingdom coal.

MR. RAMSAY MACDONALD said that he would be glad to have this matter examined further, and that he felt that something could be arranged on the lines of the Anglo-Argentine agreement.

MR. SNOWDEN said that if Canada took United Kingdom coal, she could, in practice, only pay for it in wheat, and that it therefore appeared doubtful whether special arrangements were necessary for direct exchange. He pointed out that the United Kingdom imports from Canada were three times as large as Canadian imports from the United Kingdom.

MR. BENNETT said that it appeared to him that in view of the definite declaration that certain methods of increasing Inter-Imperial trade were not available as between the United Kingdom and the Dominions, the Dominions would be driven to making arrangements *inter se* excluding the United Kingdom.

MR. RAMSAY MACDONALD said that he would be quite prepared to make the proposed statement of tariff policy into a unilateral declaration by the United Kingdom. Such action would show the United Kingdom's desire to do something to help. He would not ask the Dominions to bind themselves, but would trust to their goodwill.

MR. HAVENGA said that he felt this was the best way of dealing with the matter.

MR. BENNETT said that he thought that it was the only thing to be done. The Dominions could not agree to have their hands tied in dealing with the rest of the Empire. Apart from the United Kingdom, there was an enormous trade to be developed amongst the various parts of the Commonwealth.

MR. THOMAS said that he felt it would not be correct to suggest that proposals for *inter se* development, excluding the United Kingdom, had arisen as a result of this Conference.

MR. BENNETT drew attention to the changes in trade relations between Canada and the United States which were likely to result from the return of the Democratic Party to power in the United States. He said that during the previous Democratic régime very close trade relations had been established between the United States and Canada. He pointed out that great opportunities of increased trade were likely to be offered to Canada by the Democratic Party, and that once such trade was established, no Canadian Government would be able to stop it.

MR. RAMSAY MACDONALD referred to the draft statement of policy, and said that he was willing to deal with the question of the maintenance of the preferences given by the United Kingdom by a unilateral declaration on the part of the United Kingdom.

MR. SNOWDEN enquired whether that would mean that the Dominions would be free to raise their tariffs against the United Kingdom.

MR. HAVENGA said that in the event of such a declaration the Union would feel morally bound to reciprocate.

In view of the opening of the Indian Round Table Conference, it was agreed to adjourn the discussion until 3 P.M. in the afternoon.

195.

*Extraits des procès-verbaux des réunions des Premiers ministres  
et des Chefs de délégations*

*Extracts from Minutes of Meetings of Prime Ministers  
and Heads of Delegations*

Twenty-fifth Meeting

November 12, 1930

SECRET

1. The Prime Ministers and Heads of Delegations resumed their discussion of the draft Statement on Economic Policy which had been circulated by the representatives of the United Kingdom at the meeting on the afternoon of Tuesday, the 11th November. A revised version of paragraph III of the Statement had been prepared by the United Kingdom in the form of a unilateral declaration, and was handed round at the beginning of the meeting. This is attached hereto as Appendix I.

Consideration was given to the question whether the general statement should be of a multilateral character, *i.e.*, in the name of the Imperial Conference, or unilateral, on behalf of the United Kingdom only.

The Representatives of the Union of South Africa stated that if the declaration was to be multilateral they could not agree to the first sentence of the draft.

MR. BENNETT, after criticising the draft paragraph by paragraph, made the statement which is attached hereto as Appendix II, proposing that those parts of the Empire which are prepared to accept the policy of extended tariff preferences should set up Committees to examine what they were able to do, and should then meet at Ottawa to see what changes could be effected to the common advantage. If the United Kingdom was not prepared to examine any proposals relating to tariffs, he felt that the Dominions might consider proceeding with such a programme apart from the United Kingdom.

The Representatives of the United Kingdom deprecated the adoption of such a course.

A discussion then took place as to the adoption by the United Kingdom of the wheat quota proposals in the Report of the Committee on Economic Co-operation. Views were expressed on behalf of Dominion Delegations to the effect that they had understood that the United Kingdom would at once adopt the Dominions wheat quota if the Committee on Economic Co-operation reported favourably on the proposal.

The Representatives of the United Kingdom stated that further examination of the matter would be required before legislation could be introduced, but that if a Draft Bill containing a satisfactory and workable scheme could be prepared, there would be no difficulty so far as parliamentary time was concerned . . . .

4. MR. BENNETT asked that there should be inserted in the Report of the Conference a statement that the Representatives of Canada declared that the acceptance and execution of the Agreement [on merchant shipping] was subject to the approval of the Government of the Dominion of Canada. Sir GEOFFREY CORBETT stated that if this declaration was inserted in the Report, he must ask that there should also be inserted in the Report a statement that the Representatives of India accepted the Agreement, subject to the approval of the Government of India.

It was agreed at the meeting that these declarations by the Representatives of Canada and India respectively should be incorporated in the Merchant Shipping Section of the Report. Mr. Bennett and Sir Geoffrey Corbett subsequently agreed that, provided their respective declarations on this subject were recorded in the Conclusions of the present meeting of the Prime Ministers and Heads of Delegations, they need not be reproduced in the Report itself. Accordingly, these declarations have not been included in the Merchant Shipping section of the Summary of Proceedings . . . .

(A note of the discussion is attached as Appendix VII to these Minutes.) . . .

## APPENDIX I

III. In the meantime the United Kingdom Government declares that the existing preferential margins accorded by the United Kingdom to other parts of the Empire will not be reduced for a period of three years or pending the outcome of the proposed Conference, subject to the rights of the United Kingdom Parliament to fix the budget from year to year.

## APPENDIX II

### IMPERIAL ECONOMIC POLICY

#### *Statement of the Dominion of Canada*

1. It is the understanding of the representatives of the Dominion of Canada that the United Kingdom and the Dominions of the Commonwealth are united in the common belief that the welfare of each will be promoted by closer economic association based on mutually advantageous preferences.

2. It is the opinion of the representatives of the Dominion of Canada that such preferences can best be effectively created and maintained through the instrumentality of tariffs.

3. It is the understanding of the representatives of the Dominion of Canada that His Majesty's Government in the United Kingdom is not in accord with the opinion expressed in the next preceding paragraph, and it is not prepared to adopt the principle of preferences based on tariffs as the best means of achieving closer Empire economic association.

Other methods designed to meet the problem of mutual accommodation have been suggested by His Majesty's Government in the United Kingdom for discussion and report by the Committee on Economic Co-operation, and this Committee has now tabled its findings with the Heads of Delegations.

In the opinion of the representatives of the Dominion of Canada, the only suggested alternative of practical value is that of a Quota System, to be applied to the importation of wheat into the United Kingdom, and that, therefore, no useful purpose is to be served by further inquiry into any of the other matters which were before it.

4. The representatives of the Dominion of Canada, in view of the foregoing, now invite each unit of the Empire subscribing to the views stated in paragraph 2, to set up, without delay, Committees whose functions will be to carry out investigations into the applicability of the principle of tariff preferences, and the detailed employment thereof; and that this Economic Conference be adjourned to meet at a time and place to be now decided on for the purpose of receiving the reports of these Committees and of implementing them by the negotiating of as comprehensive as possible a scheme of Empire trade association.

It is, furthermore, the opinion of the representatives of the Dominion of Canada, that concurrently with such investigations into the employment of tariff preferences, there should be undertaken whatever further enquiry may be necessary into the merits of the Quota System as affecting the Dominion, with a view to finally determining its precise operation, and the desirability of accepting it as the preferred solution of the existing problem of marketing Empire wheat.

November 12, 1930

...

## APPENDIX VII

### SUGGESTED STATEMENT ON ECONOMIC POLICY

#### *Note of Discussion*

There was handed round at the Meeting a redraft of Paragraph III of the suggested statement on Economic Policy in the form of a unilateral declaration by the United Kingdom. This redraft is attached as Appendix I to these Minutes.



MR. MACDONALD said that the United Kingdom Delegates were prepared to substitute this statement for paragraph III in the original draft, trusting in return to the general goodwill and friendly consideration of the Dominions. . . .

MR. SCULLIN expressed appreciation of the action of the United Kingdom Delegation, and said he was in general agreement with the document in its new form. . . .

MR. BENNETT said he thought the first thing the Meeting should consider was whether a general declaration was to be made on behalf of the Conference as a whole or only on behalf of the United Kingdom.

MR. MACDONALD said he was in the Meeting's hands as to whether they wanted a multilateral declaration on the lines of the draft with paragraph III unilateral, or the whole declaration to be made on behalf of the United Kingdom Government.

MR. SCULLIN said he favoured a multilateral declaration.

MR. BENNETT said that the document had been put forward by the United Kingdom Delegation. As regards paragraph I, he regarded the preamble as merely affirming a general principle, but Canada could not accept I(b) as he considered that it did not put the position fairly from the point of view of the Dominions. He also objected to the reference to manufacturing industry at the end of I (b) since the Dominion applied the same policy to agriculture and other branches of industry. As regards I (c), he thought that it was for each Government to consider the question referred to from their own point of view.

Turning to Paragraph II, he thought it had been shown that the quota could not be applied to products other than wheat. Canada had been prepared to accept a wheat quota, because no other practical suggestion had been put before them. On paragraph IV, about the Empire Marketing Board, he had never considered it fair that United Kingdom funds should alone bear the cost of work which was of general benefit to the Empire.

He had criticised the draft statement which had been put before them. The question was what could be substituted for it? The Canadian Delegation had prepared a statement (attached as Appendix II), which he read out. He explained that this statement led up to an invitation to each country for a further joint meeting to see what tariff changes could be effected to the common advantage. He suggested that, if the United Kingdom were not prepared to examine any proposals relating to tariffs, the Dominions might consider proceeding with such a programme apart from the United Kingdom.

MR. SNOWDEN drew attention to the recent increases in the Canadian tariffs on United Kingdom goods, and the serious effect which they had had on employment in the United Kingdom.

MR. THOMAS said that hitherto preferences had been given by the various countries as a contribution to the well-being of the Commonwealth as a whole. He feared that all the work which had been done by the Conference



on constitutional questions would be thrown away if any declaration leading up to such a suggestion as Mr. Bennett had made resulted from the Conference. It would lead to political controversy, which might be the first stage in the disruption of the Commonwealth. He suggested that they should bear in mind the contributions which the United Kingdom had made to the common weal. Let them also remember that the proposed declaration as to the value of Imperial preferences would be the Labour Party's first formal recognition of their value. He hoped they would also bear in mind that the proposed declaration regarding the maintenance of existing preferences for three years had been extremely difficult to make, having regard to the budgetary policy of the United Kingdom. He feared that any declaration on the lines suggested by Mr. Bennett would be the first step towards controversy between the different peoples of the Commonwealth, and would be contrary to the interests of all.

MR. SCULLIN thought there was a good deal in what Mr. Thomas had said. He did not believe in a policy of bargaining as between the various countries within the Empire, and he thought it was very desirable to reach some form of agreement. He was quite prepared to accept the United Kingdom document generally, and he did not place on the first sentence the interpretation which Mr. Havenga had suggested.

MR. HAVENGA said it seemed to him that the first sentence might commit them formally to a maintenance of tariff preferences in the future. While South Africa was quite prepared to maintain the existing preferences to United Kingdom goods so long as the United Kingdom maintained her preferences to South African goods, he feared that a formal declaration on the lines suggested would only antagonise foreign countries in which South Africa required to find markets for her goods.

MR. MACDONALD said that he understood that Mr. Bennett suggested issuing a statement to the effect that, because the United Kingdom could not adopt a tariff policy, the Dominions would be invited to hold a conference among themselves with a view to forming some sort of tariff league. He thought that the question before the Conference was how all parties, while recognising the position taken up by others, could contrive measures which were mutually helpful.

GENERAL HERTZOG said that his Government would be criticised if they subscribed to a declaration recognising the assistance which tariff preferences had been to their producers, if they knew all the time that the United Kingdom Government was opposed to these tariff preferences and might repeal them in the future. The only effect would be to antagonise foreign countries.

MR. BENNETT said that Canada had paid a great price for inclusion in the Empire. Her sacrifices during the war had been very heavy and were the direct result of her membership of the Empire. He was anxious that there should be a Conference where all views could be considered for the advan-

tage of all parts of the Empire, but the United Kingdom had refused to agree to discussion at such a Conference of a subject which was of primary importance to the other parts of the Empire. For this reason he felt that the Conference should be held even without the participation of the United Kingdom. The disruptive forces at present at work could only be arrested by the formation of a firm economic policy within the Empire. He believed that the situation was so serious that everything should be explored. He did not ask the United Kingdom to adopt the views which he put forward but only not to refuse to discuss them. India had adopted a special form of tariffs based on detailed enquiries and limited in duration, which was of advantage, and it might be that the United Kingdom would also find it useful to adopt something of this nature.

SIR THOMAS SIDEY said that no previous Imperial Conference had met under such serious economic conditions as those prevailing at the present time. Developments of a very difficult character might take place in the near future, and such factors as the invasion of the United Kingdom markets by Russia might compel the Dominions to seek other markets.

MR. MACDONALD said that he was willing that the statement on Economic Policy should be multilateral or unilateral, whichever form was preferred by the meeting, but that for any Government in the United Kingdom to make a declaration on the lines desired by Mr. Bennett was impossible. If the only thing which could keep the Empire together was economic advantage, and this could only be achieved by the adoption of tariffs, he would prefer not to comment on such a situation.

MR. FORBES said that the United Kingdom Government had undertaken to make its statement of policy and that he felt that this document was to be regarded as the United Kingdom's statement.

#### WORK OF THE COMMITTEE ON ECONOMIC CO-OPERATION

MR. STEVENS said that the United Kingdom Government had suggested the examination of methods of improving inter-Imperial trade other than tariffs, but that when the Committee on Economic Co-operation had brought forward the results of this examination after some five weeks of work, their report was set aside in favour of a document put forward by the United Kingdom Government, which was not in agreement with the report. Mr. Graham had ruled out the discussion of tariffs on the Committee of Economic Co-operation and the United Kingdom Government now said that the quota system could not possibly be considered until it had been referred again to the Imperial Economic Committee and to a subsequent Imperial Conference.

MR. MACDONALD dissented. He said that the report on the quota did not deal fully with the matter. There were omissions in certain important respects.

MR. STEVENS enquired why the United Kingdom representatives on the Committee of Economic Co-operation had not brought forward the fact that there were these omissions? The Committee had been shown a document in the form of the heads of a draft Bill which they were told dealt with the intricate machinery necessary in the United Kingdom, but it had been stated that that machinery was a matter for the United Kingdom alone to consider and that it had been studied for many months. If the United Kingdom were aware of the difficulties which they now raise before the Committee was asked to sit, why had not these points been brought up at an earlier stage?

MR. GRAHAM said that his ruling on the Committee with regard to tariffs had been based on the remit which had been sent to the Committee from the Heads of Delegations and that no one on the Committee had challenged the terms of this remit.

MR. STEVENS said that at an early meeting of Heads of Delegations, Mr. MacDonald had suggested the reference of all methods of improving inter-Imperial trade, including tariff preferences, to the Committee on Economic Co-operation. Mr. Graham had ruled out tariff preferences and it had not, therefore, been possible for the Canadian representatives on the Committee to bring forward a statement which they had prepared on the subject.

MR. MOLONEY quoted from the Minutes of the Meeting of the Heads of Delegations the statement by Mr. MacDonald to the effect that if on examination of the quota proposal this were found to be satisfactory, the necessity for legislation would not set it aside so far as the United Kingdom was concerned. In view of this statement, he was disappointed that after five weeks of work the United Kingdom Government should take up their present attitude.

MR. MACDONALD said that the statement quoted did no bear the meaning put upon it by Mr. Moloney. His point then was that if the scheme was found satisfactory the United Kingdom Government would find the necessary parliamentary time and the legislation would go through. He could not, however, introduce legislation based on a report which was incomplete, nor admit that the scheme could be regarded as satisfactory from the United Kingdom point of view, without further examination. The question of the machinery necessary to give effect to the quota was the business of the United Kingdom Government and would require very careful examination. No statement had, however, been made by the representatives of the United Kingdom to the effect that the report was to be set aside. The report was an important document throwing light on the point of view of the Dominions, and it was now for the United Kingdom Government to take it and consider whether means could be devised to carry the proposals contained in it into effect, which would require an Act of Parliament.

MR. SCULLIN enquired whether the passing of such legislation would be deferred until after the Conference at Ottawa?

MR. MACDONALD said that as soon as the Board of Trade and the Ministry of Agriculture were freed from the work of the Imperial Conference, the matter would be examined. There would be no difficulty so far as parliamentary time was concerned, provided that a draft Bill could be produced containing a satisfactory and workable scheme. It appeared to him unreasonable that the United Kingdom should be asked to legislate forthwith on the basis of this report. It was necessary first to consider whether appropriate internal machinery could be devised.

MR. STEVENS said that he felt that the United Kingdom Government should have told the representatives of the Dominions at an earlier stage of the existence of the difficulties which were now brought forward.

MR. MACDONALD said that in the first instance the Dominions had not been prepared to agree to the quota scheme and that a considerable step forward had been taken now that as a result of the Committee's examination they were ready to accept it.

## 196.

### *Extraits des procès-verbaux des réunions des Premiers ministres et des Chefs de délégation*

### *Extracts from Minutes of Meetings of Prime Ministers and Heads of Delegations*

Twenty-sixth Meeting

November 13, 1930

## SECRET

1. THE CHAIRMAN said he hoped that later it would be found possible to continue the discussion by Heads of Delegations on the subject of Foreign Affairs.

2. THE CHAIRMAN said that it had been brought to his notice by the Chiefs of Staff that the Resolutions of the 1926 Conference in regard to Defence were not completely up to date. The Chiefs of Staff had expressed regret that it had not been found possible to revise these Resolutions, but obviously this could not be done at the technical Meetings. He had been asked to suggest that it would be useful to make a brief reference to the matter in the Report. This could be done by the following additional paragraph to be inserted after the first paragraph of the passage relating to Defence:

Consequently it was not found possible to re-examine the Resolutions on this subject adopted at the Imperial Conference, 1926. It is hoped that this question will be taken up on the occasion of the next Imperial Conference.

MR. SCULLIN after glancing at the Defence Resolutions of 1926, suggested that to include the above passage in the Report would tend to invite attention to the failure of the Imperial Conference to deal with this question. In the meantime the Resolutions of 1926 remained.



It was suggested that, in any event, persons interested in Imperial Defence would draw attention to the matter.

THE CHAIRMAN pointed out, however, that if this passage were included, lay opinion as well as expert opinion would notice the omission. He thought that it would suffice to place his statement on the records of the present Meeting.

(This was agreed to.)

3. The Prime Ministers and Heads of Delegations had before them a proposed statement on Economic Policy to be made on behalf of His Majesty's Government in the United Kingdom. A copy of this statement is attached as Appendix I hereto. It was explained that this statement had been prepared as the result of the discussions at the meeting of Prime Ministers and Heads of Delegations held on the previous afternoon (P.M. (30) 25).

The representatives of the Union of South Africa made the following statement:

The Government of the Union of South Africa declares that the existing preferential margins accorded by South Africa to the United Kingdom will not be reduced for a period of three years or during such shorter period as the existing preferential margins accorded to South Africa by the United Kingdom may remain in force.

MR. RAMSAY MACDONALD thanked the representatives of the Union of South Africa for making this statement.

Some discussion ensued on the statement which His Majesty's Government in the United Kingdom had prepared, in the course of which it was agreed—

That the word "should" in the last line of Paragraph II should be altered to "might".

4. The meeting then turned to consider whether any declaration of Economic Policy should be made by the Conference itself and if so, whether it should be additional to or in substitution for a declaration on behalf of His Majesty's Government in the United Kingdom. MR. BENNETT said that he had prepared a draft which might perhaps form the basis of a general resolution by the Conference. Mr. Bennett's draft is attached as Appendix II to these minutes . . . .

(A Note of the discussion on Economic Policy is attached as Appendix IV to these Minutes.)

5. The Prime Ministers and Heads of Delegations then resumed their consideration of the report of the Committee on Economic Co-operation (Paper E.E. (30) 62). It was agreed—

(i) to accept Section II of the report dealing with quotas for commodities other than wheat, Import Boards, &c., and to refer it to the consideration of the Governments concerned;

(ii) to accept Section III of the report dealing with the Imperial Shipping Committee, and to adopt the resolutions contained in paragraph 16 thereof;



(iii) to accept Section IV of the report dealing with the Imperial Economic Committee and to adopt the resolutions contained in paragraph 19 thereof.

As regards Section I of the report of the Committee on Economic Co-operation, regarding a quota for wheat, the representatives of Australia said that they would be glad if the Final Conclusion could be put in the following words, instead of the wording used in Conclusion (1) (a) of P.M. (30) 24: "His Majesty's Government in the United Kingdom undertook to examine carefully the report of the Committee on Economic Co-operation on a quota for wheat, and, in the course of their consideration of this subject, to consult with the Governments of the wheat-growing Dominions and of India."

This amendment of the wording of the previous Conclusion was agreed to.

6. The Prime Ministers and Heads of Delegations then considered Section V of the report of the Committee on Economic Co-operation (Paper E.E. (30) 62). The representatives of the Union of South Africa handed in a revised form of the note expressing their views which is appended to the resolutions contained in paragraph 21 of Section V of the report. The representatives of India drew attention to the reservation which they had asked to have inserted immediately after the reservation of the Union of South Africa referred to above. The terms of this reservation have already been circulated as Paper E.E. (30) 62. Corrigenda No. 2.

A discussion then took place with regard to the recommendations of the Committee on Economic Co-operation that the Empire Marketing Fund should be constituted as a Trust Fund, and that the Empire Marketing Board should be reconstituted as a Body of Trustees. (See Resolution V, paragraphs (1) and (2), on page 9 of the report of the Committee on Economic Co-operation.)

It was agreed—

To adjourn the discussion with regard to Section V of the report of the Committee on Economic Co-operation until the Meeting to be held during the afternoon of Thursday, the 13th November.

## APPENDIX I

### IMPERIAL ECONOMIC POLICY

#### *Draft of Statement to be made on behalf of His Majesty's Government in the United Kingdom*

I. His Majesty's Government in the United Kingdom, believing that the development of inter-Imperial markets is of the utmost importance to the Commonwealth, have declared that the interests of the United Kingdom preclude any international economic policy, like tariffs, which would injure its foreign trade or would impose duties upon food or raw material; but that

their fiscal policy does not preclude marketing propaganda and organisation which will secure valuable opportunities for the consumption of Dominion products in the United Kingdom.

II. His Majesty's Government in the United Kingdom have suggested that the Governments of the Empire should undertake to make forthwith a close examination of the various methods by which each may make the greatest possible contribution to economic co-operation within the Empire with a view to presenting reports to a Conference, which, it has been suggested, should be held next year, or as soon as the reports are ready.

III. In the meantime, His Majesty's Government in the United Kingdom have declared that the existing preferential margins accorded by the United Kingdom to other parts of the Empire will not be reduced for a period of three years, or pending the outcome of the suggested Conference, subject to the rights of the United Kingdom Parliament to fix the budget from year to year.

IV. His Majesty's Government in the United Kingdom agree to reconstitute the Empire Marketing Board as a body with a fixed minimum annual income, with a provision enabling it to receive such other contributions from public or private sources as it may be willing to accept, for the purpose of furthering the marketing of Empire products.

V. His Majesty's Government in the United Kingdom agree to the reconstitution of the Imperial Economic Committee on the lines recommended by the Committee of the Conference on Economic Co-operation.

November 12, 1930

## APPENDIX II

### IMPERIAL ECONOMIC POLICY

#### *General Resolution proposed by Mr. Bennett*

1. The Imperial Conference is agreed that inter-Imperial trade preferences have been a recognition of unity and of common advantage to the various parts of the Empire, and this Conference records its belief that the development of inter-Imperial markets is of the utmost importance to the various parts of the Empire.

2. Inasmuch as this Conference has not been able, within the time limit of its deliberations, to fully examine the means by which inter-Imperial trade preferences may best be established and maintained, it is resolved that it be now adjourned to meet at Ottawa on the Third day of August, 1931, when every means suggested by the delegates thereto will be thoroughly explored with a view to adopting the means determined on as the one most likely to achieve the common object; provided it is agreed that the generality of such reference is not to be construed as modifying the views expressed by the Delegates of any of the countries at the opening of the Plenary Session of this Conference.

3. It is further resolved that committees be immediately set up in all the countries here represented for the purpose of examining into the alternative means proposed, and preparing reports based on such examination for submission to the adjourned Conference.

4. And it is further resolved that, pending action by the adjourned Conference, the countries to be there represented should, consistent with the demands of their local situations, continue without variation the preferences now existing, provided that inter-Imperial or foreign treaties consummated in the interval will not be considered a variation of the spirit of this understanding.

### APPENDIX III

#### GENERAL RESOLUTION

1. The Imperial Conference is agreed that inter-Imperial trade preferences have been a recognition of unity and of common advantage to the various parts of the Empire, and this Conference records its belief that the development of inter-Imperial markets is of the utmost importance to the various parts of the Empire.

2. Inasmuch as this Conference has not been able, within the time limit of its deliberations, to examine fully the various means by which inter-Imperial trade may best be maintained and extended, it is resolved that the Economic Section of the Conference be adjourned to meet at Ottawa on a date within the next twelve months to be mutually agreed upon, when that examination will be resumed with a view to adopting means and methods most likely to achieve the common aim; provided it is agreed that this reference is not to be construed as modifying the policy expressed by the Delegates of any of the countries at this Conference.

3. It is further resolved that each Government concerned will take such action as it may deem appropriate to prepare for the discussions at the Conference.

### APPENDIX IV

#### ECONOMIC POLICY

##### *Note of Discussion*

. . .

MR. THOMAS suggested that the criticism of previous Conferences was that no attempt had been made to explore the economic resources of the Empire and see what could be made of them for the common good of the Empire. The discussions at the present Conference had shown how far circumstances had changed in recent years, and had drawn attention to the need for greater

co-operation in future. He thought the Conference would be unwise if it did not see what arrangements could be made for working out this co-operation for the future.

MR. RAMSAY MACDONALD said that Mr. Mackenzie King had suggested that an Economy Conference should be held at Ottawa, and the United Kingdom Government had been the first to respond to this suggestion. Various circumstances had intervened to prevent this Conference, but he felt very strongly that Economic Conferences ought to be held separately from Imperial Conferences dealing with constitutional issues. Obviously, the brunt of the work at such Economic Conferences would fall to Ministers of Commerce.

He suggested that it should be made known that an Economic Conference was to be held next year, and that owing to the mass of constitutional work arising out of the 1926 Conference, which had fallen to the present Conference, they had not had adequate time to deal fully with economic matters.

MR. BENNETT said that the original suggestion for an Economic Conference at Ottawa had come from himself in 1929. During the recent General Election in Canada he had again pressed for an Economic Conference. At the present Imperial Conference there were two sides to the work, and he agreed that there had not been enough time available to consider properly the economic issues. He still thought that tariffs were the best instruments for promoting Imperial trade, and the other Dominions agreed with this view. They had waited a long time to receive a formal statement of the United Kingdom position, although, of course, that position was previously known.

He had been thinking whether there was any solution of the difficulties which might enable the Commonwealth to present a united front *vis-à-vis* foreign countries. He thought they would all agree that this was very desirable. He had drafted a statement which might, he thought, serve as a basis of a common resolution by the whole Conference.

MR. BENNETT then read out this statement, which is attached as Appendix II, and explained that the general effect of it was that every means of promoting mutual trade should be explored at the proposed future Conference. He suggested that it would be undesirable definitely to rule out tariffs, and that the Economic Section of the Conference should be adjourned until next year, in order that it might not be an active political issue in any General Election which took place in the United Kingdom, and in order that the public should realise that everything had been done to create an united front.

MR. SNOWDEN said he thought it was not quite fair to suggest that the reason for the Conference having accomplished little was the delay in the United Kingdom Statement of Policy. He had himself urged that such a statement should be issued at an earlier stage, but this had been found impossible.

As regards what Mr. Stevens had said the previous day about the Committee on Economic Co-operation not being allowed to consider tariffs, he



suggested that the reference to the Committee on Economic Co-operation was in the form it was because the consideration of tariffs had, in fact, already been rejected at the Heads of Delegations meetings.

MR. STEVENS said that the reasons for his understanding that tariffs would be considered were, firstly, the suggestion at the Plenary Session on the 8th October that a Committee should be set up with practically unlimited terms of reference; and, secondly, Mr. Ramsay MacDonald's statement at the same meeting that the question of the wheat situation was included in the agenda of the Conference. He also referred to a Press communiqué to the effect that the Committee would receive and discuss all the suggestions which had been made. He did not, of course, mean to make any suggestion of bad faith.

MR. RAMSAY MACDONALD said that the Committee on Economic Co-operation was one of inquiry, and it naturally had to bear in mind the United Kingdom Government's position in regard to tariffs. He should have expected that if there had been any difficulty as to the Chairman's ruling of what the Committee could properly consider, the point might have been raised at the next meeting of Heads of Delegations. He quite accepted Mr. Stevens's statement.

MR. GRAHAM said that he had only given his ruling after consulting the list of subjects which had been referred to the Committee by the Heads of Delegations.

MR. MOLONEY enquired what was to be done about the Report of the Committee on Economic Co-operation on the wheat quota.

MR. RAMSAY MACDONALD explained the decision which had been reached at the meeting of Heads of Delegations on the morning of the 12th November.

MR. MOLONEY said he thought that the Dominions concerned should be given an opportunity to collaborate in the further examination by being able to express their views on any objections to the proposal which might have to be considered.

MR. RAMSAY MACDONALD said that this was the reason for his original suggestion that the Report on the wheat quota should be referred also to the Imperial Economic Committee, but the feeling of the meeting had been against this suggestion. He agreed, however, that consultation with the Dominions might take place on certain aspects of the further examination.

MR. MOLONEY requested that the statement to be made should be to the effect that the United Kingdom Government undertook to examine most carefully the report of the Committee on Economic Co-operation (on the wheat quota) in an endeavour to discover a basis for legislative action, and would, in the course of its enquiries, maintain close consultation with the Governments of the wheat-growing Dominions and of India.

The United Kingdom Delegates agreed to a statement on these lines subject to the deletion of the words "in an endeavour to discover a basis for legislative action."



(At this point in the proceedings Mr. Bennett's Draft General Resolution was circulated to the meeting. (See Appendix II.))

MR. THOMAS enquired whether Mr. Bennett's proposal was to make the Resolution additional to the declaration by the United Kingdom Government or in substitution for it.

MR. BENNETT suggested that the two statements could not well be published side by side, since they might appear to be in conflict with each other.

MR. RAMSAY MACDONALD said that there was no public record of the United Kingdom Government's position, and this should be put right. He thought that, for political reasons, the United Kingdom Government could not agree to no declaration being made as to their general position.

MR. FORBES agreed that the United Kingdom Government ought to make a declaration of their position.

MR. THOMAS said he thought it would be worth while trying to agree to a common declaration as well as the statement which each country made for itself.

MR. BENNETT said he agreed that the United Kingdom Government should make their statement.

MR. SCULLIN suggested that there might be some modification of the United Kingdom statement so that it should not bar the door against a tariff policy.

MR. RAMSAY MACDONALD said that he personally felt sure that no responsible political party in the United Kingdom would pledge itself to taxes on food-stuffs.

MR. BENNETT quoted the following passage from his speech at the second plenary meeting of the Conference:

First we must approve or reject the principle. I put the question definitely to you and definitely it should be answered. There is here no room for compromise, and there is no possibility of avoiding the issue. This is a time for plain speaking, and I speak plainly when I say that the day is now at hand when the peoples of the Empire must decide, once and for all, whether our welfare lies in closer economic union or whether it does not. Delay is hazardous. Further discussion of the principle is surely unnecessary. The time for action has come. Projects other than the one that I propose have been placed before you. They have been carefully canvassed by our delegation, and, while we would avoid anything which might savour of premature condemnation, we are constrained to state that none of them can be accepted by Canada as alternatives at all likely to achieve the purpose we have in mind.

MR. RAMSAY MACDONALD said that it appeared to him that a reasonable arrangement would be to have published the statements made on behalf of the Dominions, the statement made on behalf of the United Kingdom, and a general statement on behalf of the Imperial Conference as a whole. It would be undesirable for the United Kingdom statement to be published immediately in front of the general statement. He thought that, if the United Kingdom

statement was included after the reference to the speeches made at the second Plenary Meeting, then the general statement could appear later in the summary of conclusions.

(This proposal met with general agreement.)

Consideration was then given to paragraph 2 of the proposed general statement. It was agreed to amend the opening portion of this paragraph to read as follows:

Inasmuch as this Conference has not been able, within the time limit of its deliberations, to examine fully the various means by which inter-Imperial trade may best be maintained and extended, it is resolved that the Economic Section of the Conference . . . .

MR. FORBES suggested that the proposal should be for an Economic Conference to meet at Ottawa, and not for the present Imperial Conference to adjourn and reassemble there.

MR. BENNETT said that the present Conference combined both constitutional and economic sections. He would not suggest that the constitutional section should be held anywhere except in London in view of the King's residence in England. He thought that it would be best to suggest the adjournment of the economic section of the Conference to a meeting in Ottawa.

MR. HAVENGA said that he could not understand what would be the object of the proposed Conference at Ottawa, nor what it was likely to achieve. He felt that no agreement had been reached at the present Conference because the differences were fundamental, and not because details had not been worked out.

MR. THOMAS said that the alternative to the proposal for adjournment was an admission of failure. He therefore asked Mr. Havenga not to press his objections to the proposed Ottawa Conference.

MR. SCULLIN said that, even supposing that Mr. Havenga's view of the proposed Conference was correct in present circumstances, there might, perhaps, in six or seven months, be developments in the world economic situation which would force the various parts of the Empire to meet in economic conference.

MR. RAMSAY MACDONALD suggested that there was no objection to the proposal to adjourn the economic work of the present Conference. If this were agreed, the question of the date of the next meeting could be taken separately.

(This was agreed.)

MR. BENNETT said that he had undertaken to begin a general revision of the Canadian tariff during the forthcoming session of the Canadian Parliament, which would open in February 1931. If a definite decision were taken to resume the Economic Conference, he would not undertake this revision during that session.

MR. HAVENGA said that he could give no assurance that the Union Government would be represented at such a Conference.

GENERAL HERTZOG said he felt that, from the point of view of South Africa, there were very serious objections to the proposed Conference. The Union Government would be placed in a very difficult position if they were to agree to a resolution which would bind them to make no alteration in their tariffs for twelve months, in order to attend a conference which might achieve as little as the present one, unless it were to be agreed to-day that the method by which there was a prospect of a solution would not be ruled out. The Dominions were thinking along the line of tariff preferences, but there would be little value in a conference at Ottawa if they were not to try to find agreement on these lines.

MR. FORBES suggested that events might take place in the interval before the Conference which would make it of greater value.

MR. HAVENGA said that if anything should occur later which would make agreement possible, then he would be prepared to reconsider the question of participating in such a meeting.

MR. RAMSAY MACDONALD said that if this were the view taken generally, it would be necessary to say now that the present Conference had failed.

MR. BENNETT said that he did not think that adjournment for longer than twelve months would be desirable, and that he felt sure that there was no chance of complete failure of the Ottawa Conference. Canada had trade agreements with other Dominions, and would prepare for the Conference bearing in mind the possibility of making further agreements of this nature . . . .

## 197.

### *Extraits des procès-verbaux des réunions des Premiers ministres et des Chefs de délégation*

### *Extracts from Minutes of Meetings of Prime Ministers and Heads of Delegations*

Twenty-eighth Meeting

November 13, 1930

SECRET

...

2. The South African Delegates said that they had not understood that it was proposed to publish the Resolutions numbered I to III on pages 6 and 7 in the Summary of Proceedings, and they felt that, if the Resolutions were to be published, their reservation, which had been recorded on the Minutes of that morning's Meeting of Heads of Delegations (P.M. (30) 26), should be given the same publicity. Considerable discussion ensued in the course of which the view was expressed that the proposed Conference at Ottawa was

bound to be fruitless if the attitude of the United Kingdom Government barred the door against any policy involving tariffs and tariff preferences. The United Kingdom delegates said they would be open to discuss any proposals. The South African Delegates finally offered to accept Resolutions I and II and to withdraw their reservation, if Resolution III was deleted and the first part of Resolution I was also deleted.

SIR ROBERT GARRAN proposed a new Resolution III to the effect that the Agenda for the future meeting would be agreed between the several Governments.

MR. BENNETT said he felt difficulty in accepting the revised draft of Resolution I of the Conference unless the words "like tariffs" were deleted from paragraph 1 of the proposed statement of policy of the United Kingdom Government (see page 5). Considerable discussion ensued, in the course of which alternative wordings were suggested by the United Kingdom delegates. The United Kingdom delegates finally said that they would alter lines 3, 4, 5 and 6 of paragraph 1 of the United Kingdom statement so as to read:

of the United Kingdom preclude an economic policy which would injure its foreign trade or add to the burdens of the people; but that their fiscal policy does not . . . .

The Meeting then agreed to accept the proposed revisions in the Conference Resolutions, so that they read:

I. The Imperial Conference records its belief that the further development of inter-Imperial markets is of the utmost importance to the various parts of the Commonwealth.

II. Inasmuch as this Conference has not been able, within the time limit of its deliberations, to examine fully the various means by which inter-Imperial trade may best be maintained and extended, it is resolved that the Economic Section of the Conference be adjourned to meet at Ottawa on a date within the next twelve months to be mutually agreed upon, when that examination will be resumed with a view to adopting the means and methods most likely to achieve the common aim; provided that this reference is not to be construed as modifying the policy expressed on behalf of any of the Governments represented at this Conference.

III. The agenda for the meeting referred to in the previous resolution will be agreed between the several Governments.

The three sections entitled "Introductory", "General Economic Conclusions" and "Work of Committee on Economic Co-operation" were then adopted subject to the above amendments, the Secretary being instructed to make such verbal drafting amendments as were necessary.

3. The Meeting then considered the remaining sections of the Economic Part of the Summary of Proceedings, beginning with the section on Standardisation. It was pointed out that these sections of the Summary had already been circulated to the Delegations, and had also been before the Heads of Delegations at their Meeting on the afternoon of the 12th November (P.M. (30) 25).

The Meeting agreed to reaffirm their adoption of the remaining sections of the economic part of the Summary, beginning with the section on Standardisation.

(A Note of the discussion is annexed hereto as Appendix II.)

## APPENDIX II

### *Note of Discussion*

...  
MR. BENNETT drew attention to the statement contained in lines 3 and 4 of Paragraph 1 of the Statement of Policy made on behalf of the United Kingdom Government (Page 5), to the effect that "the interests of the United Kingdom preclude any international economic policy, like tariffs, which would injure its foreign trade or would impose duties on food or raw material." He enquired what was the precise meaning of the phrase, as he felt that it might become a subject of discussion. Did it indicate that tariffs which did not injure foreign trade or tax food would be acceptable?

MR. RAMSAY MACDONALD said that he had observed a certain ambiguity in this phrase but had been hoping that the point would not be raised.

MR. BENNETT said that in these circumstances he would not press the matter. . . .

MR. HAVENGA said that he felt that the reservation to the general Resolution made by the representatives of the Union of South Africa and recorded in the Minutes of the meeting that morning (P.M. (30) 26) should be included in the published summary of proceedings.

MR. RAMSAY MACDONALD said that he hoped that this would not be necessary.

GENERAL HERTZOG said that he had clearly understood at the morning meeting that the same publicity would be given to his reservation as was given to the general Resolution. He had said that he did not intend to publish his reservation, but he had meant that he did not mean himself to make a special public declaration with regard to it. He could not, however, agree that the General Resolution should stand in the summary of proceedings without his reservation, as it would make his position on return to South Africa very difficult.

MR. BENNETT suggested that General Hertzog could explain that this Resolution was only in the nature of an invitation which the Government of the Union would be free to accept or reject when the time came.

GENERAL HERTZOG said that he regretted that he could not possibly agree to the general Resolution, since it indicated that the United Kingdom Government would refuse to discuss tariff preferences at the proposed Conference.



MR. BENNETT said that he had not read into the draft Resolution the meaning suggested by General Hertzog.

GENERAL HERTZOG said that the terms of the Resolution indicated that those attending the Conference would go to Ottawa knowing that the door was barred against any discussion of tariff preferences.

MR. THOMAS said that this was not a fact; the door was not closed.

MR. RAMSAY MACDONALD said that the question before the meeting was how to meet the objection raised by the representatives of South Africa, who felt that their reservation should not only be recorded in the Minutes of the Imperial Conference, but should also be published with the General Resolution.

MR. HERTZOG said that it was clear to him that there was to be no discussion of tariff preferences at Ottawa.

MR. BENNETT said that, if this was true, it was fatal.

MR. SNOWDEN said that it was not true.

MR. HAVENGA said that objection to the extension of tariff preferences was a matter of principle with the Government of the United Kingdom, and that he did not see how there could be any doubt about the view expressed by General Hertzog.

MR. RAMSAY MACDONALD said that he felt sure that, if there had only been another six weeks available during the present Conference, it would have been possible to agree upon economic matters.

MR. BENNETT was disposed to agree, and referred, in support of this view, to Mr. Scullin's statement at the meetings of Heads of Delegations held on the morning of the 14th October (P.M. (30) 8, p. 15), in which Mr. Scullin said that he believed in preferential duties as the most appropriate method, but that he was prepared to accept any alternative which would give similar results.

MR. STEVENS said that, if the Conference were unable to reach agreement, no one would be more disappointed than he. He felt that a great deal of ground had been covered and prepared, if he might use the expression, for seeding. If the representatives of the Governments were to come together again after an interval, they would be in a better position to achieve results.

MR. BENNETT suggested that, in the case of some given commodity, it might be possible conclusively to prove to the satisfaction of the Government of the United Kingdom during the Ottawa Conference that, without the imposition of a tariff, increase of trade in that commodity could not take place, and that such a tariff would neither cause loss of foreign trade to the United Kingdom nor an increase in the price of food or raw materials. He enquired whether it was to be understood that in such a case the Government of the United Kingdom would refuse to agree to a tariff and that, in fact, their minds were completely made up on this point antecedent to the Conference.

MR. SNOWDEN enquired whether if, after full examination at the Ottawa Conference, Mr. Bennett was convinced that the Canadian protective tariffs were disadvantageous to the true interests of Canada and of the whole of the Commonwealth, he would be prepared to consider their abolition.

MR. HAVENGA said that South Africa exported only food and raw materials and that, in view of the declaration of the Government of the United Kingdom, it appeared to the Government of the Union that no advantage could possibly accrue to them from the proposed Ottawa Conference.

MR. RAMSAY MACDONALD said that it was quite impossible for the Government of the United Kingdom to say in this published document that they were prepared to impose tariffs on food and raw materials. He felt that in the circumstances the only course would be to agree to the publication of the reservation by South Africa.

MR. BENNETT enquired whether the intention of the Government of the United Kingdom was to leave the door open or was it to be understood that antecedent to the Conference, a conclusion had been reached that tariffs were definitely barred.

MR. SNOWDEN said that if he went to Ottawa, he would be quite prepared to discuss tariffs and to agree that Mr. Bennett should spend a month in trying to convert him.

MR. FORBES suggested that the difficulty might be overcome by leaving out the last sentence of Paragraph II of the General Resolution (*i.e.*, the words "after common aim"). He also thought that the use of the word "recommended" instead of "resolved" in Paragraphs II and III of the Resolution might be helpful.

MR. RAMSAY MACDONALD said that he felt that the question was whether those present were prepared to take the risk of agreeing to the Conference at Ottawa, the understanding being that South Africa would not attend, and that the South African reservation would be included in the published proceedings.

MR. FORBES said that in such circumstances it would be better not to have a resolution at all.

SIR THOMAS SIDEY said that he feared that the differences regarding this resolution revealed the fact that it was not possible to reconcile the ideas of the Government of the United Kingdom with those of the Dominion Governments on this subject.

MR. THOMAS said that what was proposed was a clear examination of all questions at Ottawa without prejudice to any views which had already been expressed.

MR. RAMSAY MACDONALD said that it would be impossible for the United Kingdom Government to give away in this document the position with regard to food taxes. Between now and the Ottawa Conference the whole economic

position would be explored with a view to devising means of co-operation. The alternative was to confess that the representatives of the various Governments had met and had been unable to come to any conclusion.

GENERAL HERTZOG said that he thought that his position would be met if the first sentence of paragraph I of the Resolution were deleted. He would be prepared to accept the second part of that paragraph beginning at "this Conference records . . .," but he would ask for the deletion of paragraph III.

MR. RAMSAY MACDONALD said that he would agree to these amendments and that in substitution for paragraph III, it would merely be agreed informally amongst those present that preparations for the Ottawa Conference would be begun as soon as the work of the present Conference had been concluded.

MR. BENNETT said that General Hertzog's proposal appeared to be a step towards a solution.

GENERAL HERTZOG proposed that the concluding words of the revised paragraph I should now be "... to the various parts of the Commonwealth."

MR. RAMSAY MACDONALD said that he saw no objection to this amendment.

MR. BENNETT enquired whether General Hertzog would agree to substitute the words "trade preferences" for "markets" in the revised form of paragraph I.

GENERAL HERTZOG said that he could not agree, as this was the whole point of his objection to the Resolution.

MR. RAMSAY MACDONALD said that he would be willing to discuss any subjects at Ottawa.

MR. BENNETT said that he would agree to the Resolution, as amended in accordance with General Hertzog's suggestions, if the Government of the United Kingdom would agree to delete the words "like tariffs" in paragraph 1 of their statement of policy on page 5.

MR. SNOWDEN said that he could not accept this proposal.

After a short interval, MR. SNOWDEN suggested that the words "any fiscal policy which would injure its foreign trade" should be substituted for the words "any international economic policy, like tariffs, which would injure its foreign trade," in paragraph 1 of the United Kingdom statement of policy on page 5.

MR. BENNETT said that he felt that this would not be of assistance. The words "international economic policy" were open to various constructions, but the words "international fiscal policy" were quite definite. He felt that the meeting was endeavouring to devise a form of words to save the Conference in the eyes of the Commonwealth's foreign competitors. In order to meet

General Hertzog's view, he was willing to accept a compromise which was very different to his own views, but he was afraid that he could not accept Mr. Snowden's proposal.

After a short interval, MR. SNOWDEN suggested that the words "an economic policy which would injure its foreign trade or add to the burdens of the people," should be substituted for the words "any international economic policy, like tariffs, which would injure its foreign trade or would impose duties upon food or raw material."

MR. BENNETT said that he was prepared to agree to this amendment to the United Kingdom's statement, and, having regard to it, to agree to the general Resolution embodying General Hertzog's amendments.

SIR ROBERT GARRAN asked that the passage with regard to agreement of the Agenda for the Conference between the respective Governments, which it had been previously decided to include in paragraph III, should not be struck out because of the deletion of the earlier part of paragraph III.

This was agreed, and it was settled that a clause on these lines should be drafted to form paragraph III of the Resolution.

## 198.

*Extraits du procès-verbal de la Conférence impériale, 1930*

*Extracts from Minutes of Imperial Conference, 1930*

Third Plenary Session

November 14, 1930

SECRET

. . .

### CONCLUDING SPEECH BY THE PRIME MINISTER OF CANADA

MR. BENNETT: Mr. Chairman, I desire to express on behalf of the Dominion of Canada—and I believe, so far as one may, on behalf of all those with whom we have been associated—our sincere appreciation of your conduct as Chairman of this Conference. Your position has been difficult, but you have discharged your difficult task with satisfaction to us all. Where firmness has been required, you have shown it. Where accommodation has been necessary, you have devised means for compromise that have in no sense jeopardised the maintenance of principle. I am sure we are all of the opinion that, in discharging the duties of Chairman, you have made a distinct contribution to this Conference.

Our thanks are also due to His Majesty's Government in Great Britain for the very careful attention that they have given to every matter that has been



brought before the Conference, and for the well-nigh perfect arrangements that were made to enable our work to be carried on. It would be idle for me to say that we all regard Sir Maurice Hankey as being as near perfection as it is possible for any man to be, and he has been ably assisted by Sir Harry Batterbee. But our thanks are due not only to the Chief of the Secretariat and his Assistants, but to all the members of the Secretariat who have so ably, and so conscientiously and efficiently discharged their duties. I would fail in my duty if I did not also bear tribute to the great and enduring contribution that the permanent Civil Service of this Kingdom has made to the success of this Conference. We all—at least in the Dominion which I have the honour to represent—regard the Civil Service of this Kingdom as the model upon which we pattern the Civil Service of our country, and I am sure that, from what we have seen since we have been here of their efficiency and their loyalty and their conscientious discharge of their duties, we are more convinced than ever that they are the models upon which we should pattern our own services.

I need hardly say that we all are also deeply conscious of the unfailing efforts which have been made by all the workers engaged in the tasks of this Conference, the printers who have so expeditiously provided our reports and the typists who must have worked very long hours indeed to have accomplished what has been done.

I would also like to say that the Secretary of State for Dominion Affairs has borne his duties and discharged his tasks in a manner that has been very gratifying to us all. Mr. Thomas is not a professional man, but his mastery of many of the difficult details of subjects which he could not be expected to understand except as the result of a very great deal of study has, I think, commanded the admiration of us all.

Having uttered these, some may say, flattering words, but in my judgment the just due of those to whom they are directed, I can only say that while we might have hoped to accomplish more, we shall, by reason of the motion which I am privileged to make, not regard our association as wholly in vain, or our deliberations as without results. I would therefore move the adjournment of the Economic Section of this Conference to Ottawa to meet upon a date within the next twelve months to be agreed upon, and I wish, on behalf of the Canadian people, to assure you of their most hearty welcome. I do not propose to address a welcome to you now, I will content myself with saying that I believe a meeting there, where the first Conference was held, will not but be conducive to the greatest possible benefit to the representatives of all the members of the Conference. I still believe that Imperial Conferences are best held here, for reasons that are obvious. Some day they will be held in other parts of the Commonwealth, but now I think that an Economic Confer-



ence in one of the newer Dominions, the senior Dominion in this case, cannot but be conducive of the utmost good of us all, and I feel certain that the decision which has now been made, to meet in our capital city, is one which will be greatly appreciated by Canadians and from which I hope all the countries of the Commonwealth will receive a definite benefit.

I will not dwell upon what I believe to be one of the other benefits, namely, the opportunity afforded of seeing a new country, vast in extent, endowed with incalculable natural wealth, growing under an economic policy acknowledged there at least to be the only one suitable to present-day conditions, and you will be able to see for yourselves the problems with which we have to deal and I hope be able to satisfy yourselves that these problems, aggressively attacked by confident, hard-working people, are being finally laid at rest. Need I assure you that we will meet our fellow delegates in a spirit of true co-operation governed by the considered conviction that the interests of all parts of the Commonwealth will be surely advanced through subscription to a plan of closer Empire economic co-operation?

I will not do more than say that the experience of succeeding years confirms me in the view, from which I have never departed, that the traditional policy of the party which I have the honour to lead, is best for Canada. I have explained this policy to the Conference in a definite way, and there is therefore no need for me to restate my position, except to amplify it by saying that, in view of the report of the Committee on Economic Co-operation which we have had under consideration, and in view of my own personal enquiries into the agricultural situation in this country, I consider it proper to say that we from the Dominion of Canada are prepared to consider the desirability of accepting the quota system as a solution of the problem of marketing our Empire wheat in the United Kingdom, having regard especially to importations from foreign countries. This view I have already expressed to Heads of Delegations and it, therefore, seems to me proper that I should now relate it to the view expressed at the second Plenary Meeting of the Conference, which view in no other respect am I prepared to modify in any way whatever. The offer which I then extended to this Conference is still open, and will, I confidently believe, be accepted by all at Ottawa.

I therefore move, Mr. Chairman, that the Economic Section of the Conference adjourn to Ottawa to meet within the next twelve months at a date to be mutually agreed upon, and in taking leave for the moment of those with whom I have been associated, may I be permitted to say what very great pleasure it has given me to meet men I have not been privileged to meet before, and how strongly their personalities have impressed themselves upon my mind and with what satisfaction I shall look back upon my meeting them here in what has been a somewhat strenuous life. . . .

## PARTIE 4/PART 4

COOPÉRATION ÉCONOMIQUE<sup>1</sup>IMPERIAL ECONOMIC CO-OPERATION<sup>1</sup>

199.

*Le secrétaire aux Dominions au Gouverneur général*  
*Dominions Secretary to Governor General*

TELEGRAM

London, March 1, 1926

CONFIDENTIAL. Following from Prime Minister for your Prime Minister. Begins. We have now concluded proposed examinations of the recommendations of the Imperial Economic Committee regarding proposed annual grant for the promotion of the marketing of Empire products in this country. Our desire has been throughout to devise a scheme which would give the fullest effect to the wishes and intentions of the Imperial Economic Committee compatible with the maintenance of Ministerial responsibility to Parliament here. After most careful consideration of possible alternatives, we have reached the conclusion that the grant should be administered by the Secretary of State for Dominion Affairs who would present to Parliament a separate vote for this service and that he should be assisted by a Committee or Board under his own Chairmanship. The Vice-Chairman of this body would be either the Parliamentary Under-Secretary of State for Dominion Affairs or the Parliamentary Under-Secretary of State for the Colonies, and it would comprise members nominated by the Secretary of State for Dominion Affairs in consultation with the Chairman of the Imperial Economic Committee, 2 members representative of English and Scottish agricultural interests, and the Financial Secretary to the Treasury.

As to the amount of the grant for 1926-27 we feel that some time is likely to be needed before the machinery is in full working order and more important the scheme matured. It seems therefore unlikely that the full amount could profitably be expended in the next financial year. Accordingly, we are arranging for provision to be made for the grant of £500,000 in 1926-27, our intention being that a full £1,000,000 should be provided for the year 1928; the grant in each case would be in the form of a grant in aid, thus enabling any balance unexpended within the financial year to be carried forward.

There are two further points which arise in this connection. (A) As regards the scope of the grant, we have come to the conclusion, both on practical grounds and in view of the state of public opinion here, that it would be most

<sup>1</sup> Une bonne partie du temps de la Conférence impériale de 1930 fut consacrée aux matières économiques. Voir ci-dessus, Chapitre II, Partie 3.

<sup>1</sup> Much of the time of the Imperial Conference, 1930, was spent on economic matters. See Chapter II, Part 3, above.

undesirable to make any differentiation between home and overseas agricultural produce, and we propose therefore that it should be a direction for the guidance of the Committee that home agricultural produce should be included with imported Empire products, in the scope of the grant. The Government of the Commonwealth of Australia have already declared themselves in favour of this principle, and I trust that this view will be acceptable to other Dominion Governments. (B) While it seems likely that the question of future arrangements with regard to further enquiries by the Imperial Economic Committee will have to be discussed at the forthcoming Imperial Conference, we are anxious to meet immediately the criticisms which have been levelled here against British representation on the Committee on the grounds that it does not directly represent home agricultural interests. It will be recalled that the original proposal was that the Committee should include 4 representatives of His Majesty's Government but that His Majesty's Government stated, when suggesting the appointment of Sir Halford Mackinder as Chairman (see Secretary of State's telegram of November 25th, 1924)<sup>1</sup> that in the circumstances they would only wish to nominate three representatives. We should, however, now be glad if other Governments concerned agree to have the opportunity to nominate forthwith an additional member of the Committee, with special representation of agricultural interests here, who would be available for the work of the Committee during the coming Summer.

We should be glad to have your views by telegram as soon as possible, as in view of public interest, both here and overseas, aroused by the Committee's recommendations, we are anxious that an announcement of the action which it is now proposed to take should be made with the least possible delay. Similar communication sent to other Dominion Prime Ministers. Baldwin. Ends.

200.

*Le Gouverneur général au secrétaire aux Dominions*  
*Governor General to Dominions Secretary*

TELEGRAM

Ottawa, March 26, 1926

CONFIDENTIAL. Following from Prime Minister for your Prime Minister. Begins. Your telegram of March 1, Imperial Economic Committee and Dominions Office telegram March 9, Merchandise Marks Bill. Canadian Government is pleased to note that Merchandise Marks Legislation has been introduced embodying in large measure the chief recommendation of the Imperial Economic Committee general report. As to the annual grant which the British Government proposes to recommend to Parliament for the promotion of the marketing of Empire products in Great Britain, we consider as indicated before the Committee was instituted, that the decision to make any appropriation from the British Treasury in lieu of preference and the decision how to spend it should rest wholly with the British Government.

<sup>1</sup> Volume 3, document 263, p. 308.

<sup>1</sup> Volume 3, Document 263, p. 308.

If an appropriation is made by the British Parliament we can conceive of no objection to devoting a portion of such grant to assist marketing of British agricultural produce. Its administration would appear to be wholly a matter for the British Government and it would be anomalous to empower Dominions representatives to advise upon the expenditure of a grant from the British Parliament. The report of the Imperial Economic Committee recommended that any executive authority set up for administering such a grant should be responsible to the British Parliament alone. The suggestion to base such representation upon the Imperial Economic Committee further appears to imply permanence of that body, whereas it was clearly understood that the committee is of a temporary and *ad hoc* character, and that any proposals for its continuance would receive consideration upon completion of its marketing enquiry. We assume that an opportunity for discussing this question will be afforded during the coming Imperial Conference. As to constitution of Committee for the purpose of continuing during the summer its enquiries upon such basis into the marketing of agricultural produce in Britain, we fully agree with the proposal to include an additional member who would specially represent British agricultural interests. Ends.

201.

*Le secrétaire aux Dominions au Gouverneur général*  
*Dominions Secretary to Governor General*

TELEGRAM

London, March 30, 1926

CONFIDENTIAL. Your telegram of March 26th. Following from Prime Minister for your Prime Minister. Begins. Imperial Economic Committee and Empire Marketing Grant. Please see telegram of to-day from the Secretary of State containing statement to be made by him in the House of Commons. We appreciate the considerations set out in your message but think it possible my message of March 1st did not fully explain the functions of the body which will advise the Secretary of State. He alone will be responsible to Parliament for the administration of the grant and all decisions taken will be his, but he will need advice and information, and in view of the purposes of the grant, it is desirable that amongst those who will be available to advise(?) him should be persons who are fully acquainted with the problems arising in connection with the marketing of Overseas products. It seems to us that advice on this aspect of the work of the new body could be most conveniently derived from Overseas representatives on the Imperial Economic Committee, and we have heard no suggestion that any other of the Dominions would see difficulties in their representative on the Committee being available to advise the Secretary of State as to the best method by which the marketing of their products in this country can be assisted. Accordingly it would be matter for great regret to us if the representative of Canadian interests alone were not empowered to give this assistance to the Secretary of State in his administration of the grant.



As regards the Imperial Economic Committee we agree that under present arrangements it is a temporary body and limited to specific terms of reference. We concur with you in hoping that opportunity for discussing its future will arise at the Imperial Conference, and have included the matter in the provisional Agenda. It is clear that, pending such discussion, no change in the character of the Committee can or should be made. We do not regard the proposal that some member of the Imperial Economic Committee should assist the Secretary of State by advising as to the administration of the Empire marketing grant as being in any way inconsistent with the present temporary character of the Committee and we should certainly regard any association on the part of the Canadian representative which, on further consideration, you may feel able to approve, as being provisional and entirely without prejudice to any view which you may wish to express at the Imperial Conference. Ends.

202.

*Le Gouverneur général au secrétaire aux Dominions*  
*Governor General to Dominions Secretary*

TELEGRAM

Ottawa, April 1, 1926

CONFIDENTIAL. Following from Prime Minister for your Prime Minister. Begins. Your telegram of March 30th and Secretary of State's telegram of same date. Imperial Economic Committee and Empire Marketing grant. We have noted the fuller explanation of the functions of the proposed advisory board and the statement that no other Dominion sees difficulties in advising Secretary of State as to best method by which the marketing of their products in Great Britain can be assisted. These considerations however do not appear to meet the essential difficulty. There is no question as to the readiness of every Dominion to take all feasible steps for assisting marketing of its products in Great Britain nor as to appreciation of goodwill of British Government in proposing marketing grant in lieu of the preferences previously proposed. The difficulty in the present suggestions is that participation by Dominions in the work of the administrative board even in an advisory capacity appears to involve participation in domestic phases of British policy and control of expenditure of a grant coming wholly from British taxpayers. In view however of your representations we are prepared to agree to nomination of a Canadian representative in consultative capacity on the understanding that this arrangement is provisional pending discussion at the coming Imperial Conference as to Imperial Economic Committee and as to advisability of participation in administration of any future grant by British Parliament. Ends.



203.

*Le représentant des produits agricoles au sous-secrétaire d'État  
aux Affaires extérieures*

*Agricultural Products Representative to Under-Secretary of State  
for External Affairs*

CONFIDENTIAL

London, June 16, 1927

Dear Dr. Skelton.

I am sending to you today copies of the Empire Marketing Board's press advertisements from the beginning of their publicity campaign.

The adjustment of publicity work to suit me has not been easy, and in addition it has been rather a delicate proposition, but I have tried to balance out the situation consistent with the dignity of Canada, and maintaining our position relatively in the markets for our commodities. I thought the time had come when the members of the Secretariat who were charged with these responsibilities would understand my purpose, and when we knew each other well enough to have confidential discussions, where all circumstances might be laid bare and without any misunderstanding or thought of personal motive. A copy of my confidential letter to Dr. Grisdale will explain the facts.

The conduct of work of the Imperial Economic Committee and the Empire Marketing Board, where conditions throughout the Empire are so varied, has not been easy. Three main factors constantly weigh with me. First; it is the British taxpayer's money which the Board is spending, and the feeling seems to be growing among certain classes in this country against the use of this money to the overseas parts of the Empire. This feeling, however, is quite outside of the members of the Board. Second; representatives of some Dominions are unblushingly out for securing advantages, and third; rightly or wrongly, I have interpreted Canada's position to be one of assisting rather than asking for assistance, and also to see that our position in this market is not relatively worse by virtue of the Board's publicity work, and the Imperial Economic Committee's reports.

I am conscious of the fact that the work of both the Board and the Committee as viewed by the public—particularly the press and poster advertisements—is that some people may ask such questions as why wheat, salmon and cheese are mentioned as Canadian products when among our exports these probably need advertising less than any other commodities. While conscious of this feature it has taken me a little time to correct it, but I hope I have now succeeded.

A similar point might be raised with respect to the relative prominence of advertisements relating to Canada and Australia, but I also think that this has

been corrected. In conjunction therewith I believe there is no misunderstanding between the Secretariat and Canada, and I am equally satisfied that goodwill obtains.

Since dictating the above, the Vice-Chairman of the Publicity Committee, Sir William Crawford, rang me up to say he had been told of my interview with the staff officials, and to assure me of his approval of my representations. Also to say that he had not found it easy on the Publicity Committee to get a satisfactory balanced presentation of the press and poster work, and that my interview would strengthen his position.

With kind regards etc.

W. A. WILSON

204.

*Le sous-secrétaire d'État aux Affaires extérieures  
au représentant des produits agricoles*

*Under-Secretary of State for External Affairs  
to Agricultural Products Representative*

Ottawa, July 7, 1927

My dear Mr. Wilson,

I am in receipt of your letter of June 16th, on the subject of the Empire Marketing Board publicity campaign.

The situation, as you say, has been a somewhat delicate one. The expenditure of the British taxpayers' money in advertising Dominion products in Great Britain is open to objection not only from the point of view of the taxpayer, but from producers in Great Britain itself and from sections of opinion in the Dominion which may object to the practice as a dole or as representing grounds for reciprocal special favours to British products in Canada. We have not asked for the grant and I assume would raise no objection if it were discontinued. At the same time, so long as the money is appropriated for the Dominions, it is not desirable that Australia or any other Dominion should receive an undue share of prominence or assistance. The position which you have taken that Canada is to assist rather than ask for assistance and seeing that Canada's position in the British market is not made relatively worse by virtue of the Board's publicity work seems to meet the situation. I am glad to learn that you have succeeded in straightening the matter out without any friction or abandonment of your general position.

Yours sincerely,

O. D. SKELTON

205.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM

London, September 26, 1927

My telegram 7th March. Imperial Economic Committee have finished report on fish as stated in my telegram 13th August and are now drafting reports on poultry, eggs and honey. They have been considering their future work with special reference to terms of reference as extended by Imperial Conference of 1926. They are now engaged on enquiry into tobacco and propose taking up pig products concurrently with it. Under their extended terms of reference they are to prepare lists of raw materials suitable for enquiry and make suggestions of subjects suitable for trade surveys. They are engaged on this and will submit such lists and suggestions but they feel that especially in regard to trade surveys their suggestions could be more appropriately made and various Governments would be in better position in deciding which trade should be surveyed if typical surveys into one or two trades had been conducted. Thus while they are preparing this list and suggestions they request authorization to conduct enquiries into timber and into hides and skins under heading raw materials and into agricultural machinery and rubber manufactured goods under heading trade surveys. All these subjects interest most parts of Empire in one aspect or another. Timber has been specially selected as it has been represented that it would be very useful to Empire Forestry meeting in Australia in Autumn of 1928 if a report on marketing of timber in the United Kingdom were issued before that meeting takes place and could be available then. Manufacture of rubber goods selected because considerable material available here regarding progress of manufacture in foreign countries. Proposed to commence preparatory work all these subjects during Autumn with members of Committee available in London so as to have all work well in hand.

His Majesty's Government in Great Britain approves of this procedure and would be glad to know whether other Governments also approve.

206.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominion Secretary*

DESPATCH 142

Ottawa, October 19, 1927

Sir,

With reference to your telegram of the 26th September last regarding the arrangements proposed for the future work of the Imperial Economic Com-

mittee, I have the honour to state that the suggested procedure is approved and I forward herewith copy of a memorandum<sup>1</sup> prepared in the Department of Agriculture on the subject of pig products in Canada.

I have etc.

W. H. WALKER

for the Secretary of State  
for External Affairs

207.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM B. 7

London, January 28, 1928

CONFIDENTIAL. Following from Prime Minister for your Prime Minister. Begins. In years 1926-1927-1928 the (Government?) here, in response to urgent representations of exhibitors, made grant of £25,000 to be spent mainly in publicity for annual British Industries Fair which is held in two sections at London and Birmingham. We have been considering question whether amount which we have found in each of these years might not reasonably in view of financial stringency be provided in 1929 fairly from Empire Marketing funds. The fund is at the present available only for furthering marketing in this country of imported Empire products and home agricultural produce. While Fair is available for display of Empire products, and indeed an exhibit has been organized by Empire Marketing Board for this purpose, main object of Fair is for exhibiting manufactures of this country, and in order to enable such assistance for general purposes of Fair as we have been giving, to be provided from Empire Marketing funds, it would be necessary to modify terms of vote so as expressly to authorize use of funds for this particular object. The money required cannot be found by increasing charge for space of exhibitors and in the circumstances we trust that you will raise no objection to its being found from Empire Marketing funds.

There can be no doubt that anything that can be done to increase sale of our manufactures will have beneficial results on marketing overseas produce in this country, and we think that position of the Empire Marketing Board in relation to manufacturing interests of this country would be greatly strengthened if this contribution towards success of Fair could be made from funds. Should be grateful for early reply. Ends.

<sup>1</sup> Non reproduit.

<sup>2</sup> Not printed.

208.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 39

Ottawa, February 20, 1928

CONFIDENTIAL. Your telegram Circular B.7 of the 28th January, 1928, Canadian Government would have no objection whatever to proposal to make a grant as proposed to British Industries Fair. Please refer to our telegram of March 26, 1926.

209.

*Le Haut commissariat britannique au ministère des Affaires extérieures  
Office of British High Commissioner to Department of External Affairs*

Ottawa, January 28, 1929

## MEMORANDUM

After a careful examination of the new Canadian regulations governing the grant of Imperial preference to goods entering Canada from Great Britain, His Majesty's Government in the United Kingdom are of the opinion that the application of these regulations on 1st February would result in an unfortunate dislocation of trade.

Conscious of the motives of the Canadian Government in framing and announcing the new regulations for the benefit of inter-Imperial trade His Majesty's Government in the United Kingdom desire to suggest that the regulations in question should not be brought into operation until 1st April or 1st May, thereby enabling traders to adjust themselves to the new conditions and at the same time to fulfil forward contracts the raw material for which will have been ordered some time before the new regulations were announced.

His Majesty's Government in the United Kingdom have further ascertained that the following goods, amongst others, which are manufactured wholly in the United Kingdom, will be unable to qualify for Imperial preference because the raw materials, which are unobtainable in the United Kingdom in commercial quantities, exceed 50% of the total value of the manufactured article:

Manufactures of copper and its alloys, cotton yarns up to forty counts, grey cotton piece goods, certain types of silk goods, paper manufactures and electric cables. Detailed particulars to support the statement that the goods for which exemption is asked are wholly manufactured in the United King-



dom and that the raw materials are not obtainable in the United Kingdom in commercial quantities are being prepared in London for the information of His Majesty's Government in Canada; but pending their receipt the High Commissioner in Canada for His Majesty's Government in the United Kingdom has been instructed to put forward a very earnest request for exemption of the goods mentioned above from the new Canadian regulations, or the modification of the latter in such a manner as will enable goods wholly manufactured in the United Kingdom from the above raw materials to continue to benefit by Canada's traditional policy of preference for British Empire manufactures.

210.

*Le sous-secrétaire d'État aux Affaires extérieures  
au Haut commissaire britannique*

*Under-Secretary of State for External Affairs  
to British High Commissioner*

No. 7

Ottawa, February 13, 1929

Sir,

With further reference to your Memoranda of January 28th and February 6th setting forth that certain goods including manufactures of copper and its alloys, cotton yarns up to forty counts, grey cotton piece goods, certain types of silk goods, paper manufactures and electric cables which are wholly manufactured in the United Kingdom, are unable to qualify for the British Preferential Tariff because the raw materials which are unobtainable in the United Kingdom in commercial quantities exceed fifty per cent of the total value of the manufactured article, and requesting modification of the Canadian customs regulations to permit the goods mentioned to be imported under British Preferential Tariff rates, I have to state that the question has received the careful consideration of the interested Departments of this Government.

It is pointed out that with respect to goods manufactured wholly in the United Kingdom and in which the raw materials exceed fifty per cent of the total value, it is not necessary that the raw materials be produced in the United Kingdom in order to enjoy the benefits of the reduced rates of our British Preferential Tariff. Raw materials produced in any part of the Empire may be used.

The Canadian Government would be glad to be furnished as early as possible with full particulars of the commodities manufactured wholly in the United Kingdom from raw materials which exceed in value fifty per cent of the total cost of production of the manufactured article, and which it is considered cannot be obtained within the British Empire. These particulars should include cost of production data and evidence as to source of materials; it would also appear advisable to submit samples of the articles in question for customs purposes. With this information, the Canadian Government

would be in a position to determine whether any modification of the new Customs regulation is desirable so far as imports from the United Kingdom are concerned.

I have etc.

O. D. SKELTON

211.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM A. 37

London, September 16, 1929

Imperial Economic Committee have completed report on pig products and enquiries connected with hide and skin trade survey on rubber goods. It has already been agreed that they should enquire into tea, coffee and cocoa, rice, wines and prepare a trade survey on tans. His Majesty's Government in New Zealand has also suggested an enquiry into hemp. These subjects together with a list of raw materials will engage Committee till well into next year but in view of experience obtained from enquiries already completed into specific products and discussions now proceeding as to holding of an Imperial Economic Conference<sup>1</sup> at the earliest convenient date, they request permission to prepare for consideration of Governments a short report to be prepared within the limit of their present terms of reference, regarding conclusions which have emerged from their particular enquiries when considered together in the light of economic conditions now prevailing.

His Majesty's Government in the United Kingdom approves this proposal and will be glad to learn whether other Governments also approve.

212.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 20

Ottawa, February 7, 1930

Your telegrams No. 8 of 17th January last and Circular A. 37 of 16th September, 1929. We do not consider it would be advisable that Imperial Economic Committee should prepare a report as suggested offering conclusions involving general survey of economic conditions now prevailing. It would seem that the advisability of the extension in this direction of the duties assigned the Committee could best be discussed at the Imperial Economic Conference.

<sup>1</sup> Voir Chapitre II, Partie 3, ci-dessus.

<sup>1</sup> See Chapter II, Part 3, above.

213.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM A. 9

London, February 10, 1930

CONFIDENTIAL. We anticipate that we shall be called upon to make an early statement to Parliament of our general policy in regard to the Empire Marketing Board, and we think therefore that you may like to know proposals which we have in mind.

Our intention is to continue the work of the Board on its present general lines. As regards finance we propose to follow practice adopted last year on the recommendation of the Select Committee on Estimates, of voting for the year such supplies as may reasonably be expected to be required for the Board's activities. This will be in substitution for system under which £1,000,000 a year was theoretically regarded as available for purposes of the Board, and the coming estimates will accordingly omit references such as were included last year to amount liable to be made available by supplementary estimates or by addition to future estimates. This is of course without prejudice to any new developments which may result from our discussion at forthcoming Imperial Conference.

PARTIE 5/PART 5

COOPÉRATION EN MATIÈRE DE DÉFENSE  
IMPERIAL DEFENCE CO-OPERATION

214.

*Document préparé pour le comité de la Défense impériale  
Paper prepared for the Committee of Imperial Defence*

SECRET

London, May [n.d.], 1926

266-C (also E.103)

REDUCTION AND LIMITATION OF ARMAMENTS  
ALLOCATION OF QUOTAS TO THE SEVERAL PARTS OF THE  
BRITISH EMPIRE

1. The discussions at Geneva of the "Preparatory Commission for the Disarmament Conferences" may well lead to an attempt to apportion the strength of armaments permissible to each participant in the Conference. The question will then arise as to whether the British Empire should be allotted its quota of armaments as one single unit or as seven separate and distinct entities.

2. The majority of foreign Powers represented at Geneva have no real understanding of the relationship which exists between the component parts of the British Empire, and may assert that the experience of the last war proves that the Empire is in reality one and indivisible, and that any argument to the effect that Great Britain, or the Dominions or India, are entitled to a separate apportionment of armaments is inadmissible.

3. At the same time the fact remains that each of these parts of the Empire participates in membership of the League of Nations separately from the other parts. It is, therefore, highly desirable that the constituent elements of the British Empire should arrive at an agreement on the question before it is raised at Geneva. The meeting of the Imperial Conference in October next affords an admirable opportunity for its consideration with a view to the adoption of a common line of policy.

4. The question for decision is not a simple choice between the adoption of one single Imperial quota or of seven separate quotas. A perusal of the attached Memoranda<sup>1</sup> on the subject by the Naval, General and Air Staffs (Appendices I, II and III respectively) will show that, while the first advocates the adoption of a single quota, the second supports the adoption of seven separate quotas and the third favours the adoption of seven quotas in the immediate future with a reservation that, with the development of aviation, the precedent established at Washington for naval forces might well prove to be the best solution in course of time. This variation in the policy advocated by the Three Services is not, however, merely a divergence of opinion on the general issue, but is founded on a careful examination of the principles governing Imperial Defence in the three elements, and is due to fundamental differences inherent in the nature of the forces with which each staff is concerned.

5. Thus, the Naval Staff base their advocacy of a single Imperial unit for Naval Forces on the principle of the "oneness" of the sea, and the fact that "a fleet suitably disposed geographically in relation to an enemy fleet provides 'cover' under which security is given to widely dispersed territories and trade routes."

6. Where land forces are concerned, the element on which they operate does not possess the same unifying quality. The Territories which constitute the British Empire are widely scattered and the principle that the forces of the several parts of the Empire can only be used to the extent authorised by the respective Governments has, as the General Staff points out, a special application in the case of land forces.

7. The element in which Air Forces operate is admittedly all pervading, but at the present stage of development it is not possible for the aircraft of each portion of the Empire to concentrate and operate as one unit in the same way as it is possible for the Navy. For the time being, therefore, the Air Staff consider that each component part of the Empire should be allotted its

<sup>1</sup> Non reproduits.

<sup>1</sup> Not printed.

own particular quota for aerial defence. Should, however, air routes be opened in some more or less distant future and air bases be established, which would enable the Air Forces to operate with the same freedom of movement as is enjoyed by the Naval Forces, then the time will have arrived to reconsider the question.

8. In the circumstances, therefore, it seems inevitable that the discussion should proceed on the basis that a distinction should be drawn between the Three Fighting Services and that each should be treated in a different manner. For the reasons given in the Memorandum by the Naval Staff, it would appear that the Navy should be considered and treated as one unit. The only Dominions sensibly affected at present would be Australia and New Zealand and the view of the Naval Staff is that any naval quota assigned to the British Empire would be sufficient to afford to both these Dominions ample opportunity to develop their own naval programmes. A further justification for this course lies in the precedent established at Washington which, as the greatest measure of disarmament by agreement hitherto accomplished, seems, it appears best to leave undisturbed by an attempt at reconstruction on a different basis. As regards land and Air Forces, on account of the particular limitations inherent in their nature, it would appear that a quota should be allocated separately to each component part of the Empire, but a reservation made that as soon as developments in aviation render rapid inter-communication by air between the widely scattered portions of the Empire practicable, the question as regards Air Forces might be considered further on strategic ground.

## 215.

### *Mémorandum du Directeur du Service naval* *Memorandum by Director of Naval Service*

Ottawa, July 30, 1926

#### NAVAL POLICY

I beg to submit for consideration a memorandum on naval policy and requirements.

The question of whether naval defence forces are required or not for Canada involves the question whether there is or is not a possibility of this country being involved in any war in the future, a question which it is not my province to memorialize you on.

But since the government see fit to provide naval defence forces, it would appear that they are not in a position to feel that various national policies may not re-act in ways, unforeseen at present, that may involve the Dominion in war-like measures.

The risks, in such an event, against which it is the responsibility of the navy to provide protection are primarily the cessation, interference with, or



damage to our maritime commerce in the case of our being a belligerent, and if we are neutral, the operation of un-neutral acts by belligerents in our territorial waters or the unjustifiable interference by them with our shipping.

While it is not for me to indicate the probability or otherwise of our being involved in a position which would bring these risks upon us, it is my duty to point out their extent and the naval measures requisite as proper and reasonable security against them.

It is for the Government to decide to what extent other national considerations must dictate the advisability of covering or accepting the risks indicated, but every endeavour has been made in this memorandum to propose a policy which, in the provision of material programme as well as of systematic strategy, takes into consideration:

1. Broad facts of our national commitments which should be realized by the officer who is in the responsible position of Director of the Naval Service, if he is to advise the Minister with any degree of usefulness.
2. Our geographical position.
3. The existence of other naval forces in the Empire.
4. The probability, particularly in the case of a Pacific maritime war, of the United States being a belligerent in alliance with us.

From time to time suggestions have been tendered by the Admiralty as to the development of Canadian Naval Forces and of our co-operation in Empire Defence.

I find myself unable to concur with these suggestions in many important points for the following reasons:

1. They are governed more by the idea of augmenting the sea-going forces available for operations in any theatre of the globe, which would be available to the Admiralty in a maritime war, than by important Canadian requirements.
2. They do not specifically set the actual conditions of risk to Canadian interests, and it is these risks alone which can form an effective argument to convince the business interests of the country of the necessity of submitting to the taxation requisite for defence.

#### GENERAL CONSIDERATIONS

In order that the Naval Defence requirements of the country may be systematically deduced, it is essential to realize what are the possible war-like conditions in which we may find ourselves involved.

They can be classified under these headings:

1. War with the United States.
2. Our position as a neutral in a war in which the United States is a belligerent.
3. War with an overseas naval power.

The above cover the cases in which, in the event of war-like conditions, Canadian interests would be threatened to any material extent.

The first of these would undoubtedly be the most serious in its effects and would call for a financial outlay for defence purposes enormously larger than that required to cover the other possible conditions of hostilities, bearing in mind the difference in population and resources of the two countries, our geographical position, and the fact that defence forces costing some \$600,-000,000. annually are maintained by our neighbour.

But, while such a war would be the most serious in its consequences, it is also generally considered to be the least probable.

This fact, together with the difficulty, if not impracticability, of coping financially with the requirements of such a case, have constrained me to refrain from any consideration of it from a naval point of view and to confine myself to the other two less improbable contingencies.

While it may be truly stated in public that the provision of armed forces for defence is to cover the general conditions of uncertainty in international relationships, from a practical point of view the effects of particular hostilities has to be studied and it is the probable consequences and incidents of such particular hostilities which must serve as guides in order to economically as well as effectively expend money in defence measures.

The particular cases of Japan being in conflict with the United States or Canada, or with the two latter combined, are possible outcomes of the re-actions of various national policies.

If our requirements in such cases are reasonably met, conditions in which any other overseas power were substituted for Japan would be amply safeguarded.

The second case of hostilities in which we should be involved in responsibilities of a defensive nature, that of our being a neutral in any naval war where the United States is a belligerent, calls for a few remarks.

Our position in such a case would be an extremely important and delicate one. Strict neutrality could not be maintained without naval forces, particularly when one looks at our extensive coastline on the Pacific and its peculiar topography offering temptations and opportunities to belligerents to forward their naval operations in the event of lack of efficient patrols.

It is not proposed to enter into the question of the role of the Military or Air Force in our defence operations with the exception of mentioning that extensive air patrols would be essential and the effective co-operation of navy and air force in coastal patrols would be of the utmost importance.

Lack of enforcement of strict neutrality in such a case would of necessity embroil us with one belligerent or the other, should it be with the United States it is difficult to exaggerate the seriousness of the consequences.

The naval forces required to efficiently carry out our duties in such a contingency are similar to those required to cover phase B shown on page 10 of this memorandum.

The third case, viz., that in which Canada may be at war herself with an overseas naval power is one which involves risks to the industrial life of the country through attacks on her maritime interests which need to be fully enquired into in order that the relative importance of naval defence in the scheme of our national commitments may be truly gauged and legislated for.

The various consequences to the country of such an emergency which call for naval defence, the measures recommended, and the requirements of a naval service, are dealt with in detail in the remainder of this memorandum . . . .

#### CONCLUSION

It will be seen from the above that the most vulnerable point in the industrial life of the country in the event of war lies in its maritime trade.

That this vulnerability can be guarded against, owing to our geographical and strategical position by means of an expenditure on naval defence which is minute compared with the value of our seaborne trade, infinitesimal compared with the extent of the industries directly and indirectly dependent on secure sea-communications.

WALTER HOSE

216.

*Le Chef de l'état major au Premier ministre*  
*Chief of General Staff to Prime Minister*

London, October 25, 1926

As requested I submit herewith Memoranda relating to Defence matters.

There are three of these headed as under:

- (1) Department of National Defence.
- (2) Military.
- (3) Air Force.

J. H. MACBRIEN

[PIÈCE JOINTE 1/ENCLOSURE 1]

*Mémoire*

*Memorandum*

#### DEPARTMENT OF NATIONAL DEFENCE

The Canadian Government in December 1922 decided to form one Department to contain the three Services, and which would deal with all questions of Defence.

On the 1st January, 1923, the Department of National Defence came into being.

This close association of the Services has been, in the main, productive of efficiency and economy through the amalgamation of the common Services of the Army and Air Force, though a good deal remains yet to be done before the organisation can be considered to be finally complete.

In the organisation of the Defence Department the principles which were laid down by the Imperial Organisation Committee of 1919, appointed by the then Secretary of State for War, Mr. Winston Churchill, have been followed for the most part.

Accompanying this are two memoranda dealing

- (1) with the Military Force, and
- (2) with the Air Force of Canada.

[PIÈCE JOINTE 2/ENCLOSURE 2]

*Mémorandum*

*Memorandum*

MILITARY

The general policy of Canada since Confederation has been the organisation and training of our Forces on similar lines to those maintained in Great Britain, making the necessary changes due to local conditions. Gradually, during these years, Canada has assumed responsibility for local defence, finally in 1904-5, taking over the garrisoning of Halifax and Esquimalt. At the several Imperial Conferences held since 1887, arrangements have been made, both by the Ministers and the military representatives in attendance, for the close co-operation of the Staffs in working out plans of defence, training, equipping, organising and so forth, of the military forces in Canada. At the Imperial Conference of 1907 it was agreed that Canada's military organisation, training and equipment should, in the main, follow that of the other parts of the Empire.

In accordance with the experience gained in the past, particularly in the Great War, Canada, at present, has an organised military force of considerable size, which should be sufficient for peace-time needs, with certain additions and changes to give a better proportion of arms.

As the war-time experienced Officers and Other Ranks drop out it becomes necessary to increase the period of training given to our military forces.

Since the late War a great number of changes, particularly towards mechanicalization of the Army have taken and are taking place, and in this respect it will be necessary for Canada gradually to conform in matters of organisation, training and equipment.

With respect to the first principle of Imperial Defence, that each Dominion is responsible for its local defence, Canada is in a much better position than she was prior to the Great War.

With respect to the second principle of Imperial Defence, that of lending support to other parts of the Empire, should such be the decision of the Canadian Government, then also, Canada is in a better position to co-operate than she has been at any time throughout her previous history, for the reason that there exists in the Dominion a large body of experienced personnel and we are in possession of much more equipment of a more suitable description than ever before.

The equipment at present held by Canada is of a pattern used in the Great War. Some of this is now obsolescent, and as more up-to-date patterns become available it will be necessary to carry out replacements.

The Peace Establishment of the militia of Canada to-day calls for a strength of roughly, 130,000, all ranks. At present this force is recruited to approximately 50% of its strength.

Among the steps taken to ensure that the Canadian Forces are trained as closely as possible on the same lines as the British Army may be mentioned the following:

Interchange of Officers.

Attendance of Officers at numerous courses in England, including the Staff College.

Also, periodical exchange of visits between Staff Officers, which are now in practice, are calculated to ensure that, should an Empire crisis arise again, the Canadian Forces will be able to co-operate with those of other parts of the Empire in an effective manner.

The establishment of the Imperial Defence College in January next, at which it is hoped two Canadian Officers will attend, will further promote an understanding of Empire Problems and their solution.

A recommendation is now waiting approval for the appointment of a military Representative at the High Commissioner's Office, who will act as Liaison Officer with the War Office, and whose duty it will be to keep the Canadian General Staff informed of the latest military thought.

[PIÈCE JOINTE 3/ENCLOSURE 3]

*Mémorandum*

*Memorandum*

AIR FORCE

Before, and during the Great War, Canada had no Air Force of her own, although 10,000 Canadians served in the Aerial Forces of Great Britain in the war against Germany.

Soon after the Armistice, in 1919, the organization of a Canadian Air Force was commenced and has proceeded gradually and on the 1st April, 1923, the Royal Canadian Air Force was established on a regular military basis.



The establishment and organization of the Force was greatly assisted by the presentation by Great Britain to the Canadian Government of a considerable quantity of aerial equipment in 1919.

The organization and training of this Force has followed closely that of the Royal Air Force and very substantial progress has been made. Two training Centres and six Stations (three temporary, during the summer months) have been established in various parts of the country, so as to carry out the several duties of the Royal Canadian Air Force.

The foundation of a Non-Permanent Air Force is contemplated, whilst regulations have already been drafted for the organization of a Reserve of Officers. It is also intended to form an Aviation Association with branches in each province.

The Royal Canadian Air Force conducts flying courses for students of the different Universities including the Royal Military College. These courses qualify for appointment to the Royal Canadian Air Force, the Non-Permanent Air Force and the Reserve thereto. By an arrangement just made these qualifications are also accepted for permanent commissions in the Royal Air Force.

Officers of the Royal Canadian Air Force are in attendance at the Air Force Staff College, Andover, and at the Naval Staff College, Greenwich. Others are taking courses at various Schools in England.

An exchange of Officers has recently been arranged and liaison visits are also carried out periodically.

Four years ago, the appointment was made of a Canadian Liaison Officer to the Air Ministry, thus helping to ensure close touch being maintained between the two services.

In Canada at present the Royal Canadian Air Force devotes a considerable part of its energies in carrying out flying for:

- (a) Other Departments of the Government on duties such as Aerial Survey and Forestry Protection.
- (b) Promotion of Civil Aviation in its various branches.

These duties constitute most valuable practical training for the personnel employed on them.

As will be noted from the Memorandum prepared for this Imperial Conference by the Air Ministry, the Royal Canadian Air Force has made commendable advances in the civil side of its work. Immense areas are being surveyed annually and millions of acres of valuable forest land protected. The character of its survey work is acknowledged to be in advance of that of any other part of the world. The work on the civil side is of such a nature that it provides practical training for the Air Force personnel.

As Civil Aviation has a direct relation to the creation of a Military Air Force and serves to create a reserve thereto it is in this field that Canada

may lend very great assistance in Imperial Defence. By the Air Force Regulations an individual who obtains a Pilot's certificate automatically becomes a Reservist.

The cause of Imperial Defence is also indirectly served by the fact that the public of Canada, generally speaking, is very much interested in the development of Air Craft and thus considerable support for the Air Policy of the Government is forthcoming because of the productive and useful nature of the work carried out by the Royal Canadian Air Force.

217.

*Extraits du procès-verbal du comité de la Défense impériale*  
*Extracts from Minutes of Committee of Imperial Defence*

217th meeting

London, November 11, 1926

SECRET

1. REDUCTION AND LIMITATION OF ARMAMENTS

...

MR. BALDWIN proposed that the Committee should recommend the following resolution for adoption by the Imperial Conference and publication in its report:

The Imperial Conference regrets that it has not been possible to make greater progress with the international reduction and limitation of armaments referred to in the resolutions of the Imperial Conference, 1923. It is the common desire of the Governments represented at this Conference to do their utmost in pursuit of this object so far as this is consistent with the safety and integrity of all parts of the Empire and its communications.

This was agreed to.

2. ALLOCATION OF QUOTAS TO THE SEVERAL PARTS OF THE EMPIRE IN  
 ANY SCHEME FOR THE REDUCTION AND LIMITATION OF ARMAMENTS

...

The Committee had under consideration the question of the Allocation of Quotas to the several parts of the Empire . . . .<sup>1</sup>

3. RATIFICATION OF THE GENEVA GAS PROTOCOL

(CHEMICAL WARFARE POLICY)

SIR LAMING WORTHINGTON-EVANS stated that before 1914 the use of gas was prohibited by The Hague Convention of 1907. The Germans were the first to use gas during the war, and the Allies then retaliated. In the Treaty of

<sup>1</sup> On trouvera un résumé des délibérations dans le document suivant.

<sup>1</sup> For a summary of this discussion see next document.

Versailles the use of gas was denounced and Germany was prohibited from the manufacture of poisonous gases. At the Washington Treaty a Declaration was made against the use of gas, which had been signed by the British Empire, and in 1925 the Geneva Protocol was drawn up denouncing the use of gas also. Both the Washington Convention and the Geneva Protocol had not yet been ratified.

The General Staff had come to the conclusion that,

(a) Gas was an effective and practical weapon of war by no means less humane than other recognised weapons, but rather the reverse, as the following statistics show: The percentage of fatal cases among British gas casualties in the last war was 3.3 per cent., as against 37 per cent., which represents the percentage of total fatal casualties due to other weapons.

(b) The British Empire was in a favourable situation for producing, using and protecting itself against gas.

(c) There could be no effective guarantee that an unscrupulous signatory of a Gas Convention would abide by it, and war gases lent themselves particularly to secret and rapid production as bi-products of perfectly legitimate commercial chemistry.

(d) The logical sequel of an international prohibition of gas was a demand for an international exchange of information as regards the methods of defence against gas, whereby we should be called upon to disclose the results of all our Chemical Warfare Research work without any guarantee of a similarly frank disclosure by other Powers.

In this connection he drew attention to a quotation from Lord Grey's book, *Twenty-five Years*:

One lesson from the experience of the war is that we should not bind ourselves to observe any rules of war unless those who sign them with us undertake to uphold them by force, if need be, against an enemy who breaks them. We kept the rule against the use of poison gas till the Germans broke it, and when they did break it we had neither gas nor protection against gas ready. The rule was nothing but a disadvantage to us, for its violation by the Germans brought no help to us. To bind ourselves by rules which we intend to keep and others intend to break is unreasonable, so long as those who break them can do it with impunity.

Having regard to these considerations, he hoped that the Empire would not bind itself any further than was already the case to the prohibition of the use of gas in war. He realised that there was considerable diplomatic difficulty in this connection, which no doubt would be expressed by the Foreign Secretary. Assuming, however, that we had made a mistake in the past by denouncing gas warfare, he suggested that it would be inadvisable to do anything which would perpetuate this mistake for all time. All the Powers were working at the present time on Research Work in connection with gases, and Russia had recently established a large factory for the production of mustard gas within reach of the Afghanistan border . . . .

SIR AUSTEN CHAMBERLAIN said he felt bound to call attention to the various declarations which had been made in the past in regard to the use of poisonous gases, as set forth in a Memorandum prepared in the Foreign Office (C.I.D. Paper No. 732-B). We had repeatedly condemned gas in the strongest language. We had charged the use of gas against Germany as a barbarous act and as an outrage to civilisation. Now the Military Authorities had re-examined the matter and said that we had mistaken the character of gas warfare and that it was more humane than any other recognised method of warfare. This, however, depended upon the particular gases which were used, and there was nothing to show that the gases of the future would be as humane as those contemplated at the present time. The treaties against gas, even if signed and ratified, were only binding in warfare against those nations who also signed and ratified the same treaty, and our obligation ceased immediately if they dishonoured their pledges. The conclusions he drew, therefore, did not indicate any difference in policy. He considered that it was as important now as in the past that the armed forces should study gas, and be prepared to produce it and to protect themselves against it. He suggested that we should not press other nations to ratify the Convention, and we should only ratify the Convention ourselves if and when we found that all the other Powers had also ratified. As Foreign Secretary he must deprecate the launching of any campaign in favour of gas till a longer time had elapsed and our charges against Germany were less present in the minds of the public . . .

MR. MACKENZIE KING considered that there was little value in self-denying ordinances unless we could ensure that all parties would agree to the ordinances and carry out their agreements. He thought that in no circumstances ought we to deprive ourselves of the means of making use of gas should the necessity arise.

#### CONCLUSION

The Committee of Imperial Defence agreed to recommend:

That the policy in regard to the ratification of the Geneva Gas Protocol of 1925 should be as follows:

To adopt a neutral attitude until other Powers have signified their intention, and to ratify only if other Powers do so.

218.

*Mémoire du Directeur du Service naval*  
*Memorandum by Director of Naval Service*

London, November 15, 1926

#### NOTES ON MEETING OF COMMITTEE OF IMPERIAL DEFENCE

There was unanimity regarding the limitation of armaments that it would be advisable, from a security point of view, to allocate definite quotas of military and air forces to the several states of the Empire rather than one quota for the whole.



The War Ministry, Air Ministry, and the Military and Air Force Chiefs of Staff did not question the contention of the Admiralty that, from the strategic point of view, it was not possible to treat the question of navies in the same manner.

This was on account of the entirely different phases of national existence, and national property, the defence of which the respective services are responsible for.

The Secretaries of State for the Dominions and for Foreign Affairs each emphasized that the naval problem was different from that of the other defence forces.

Lord Robert Cecil speaking with his experience of the League of Nations stated it as his opinion that foreign nations were fully aware that the system of limitation applied to naval forces must of necessity be different to that which would be suitable to the other services.

It would be as well to note where the main difference lies in the functions of land and air forces on one hand and of the navy on the other. There may be some similarities in minor points, but these are not sufficient to override the necessities of the predominant responsibilities of the forces.

The primary responsibility of land and air forces is the protection of territory. Now territory remains in a fixed position and its immediate danger lies in what possible enemy may be contiguous, or nearly located, to such territory.

It is therefore clear that military and air forces must be allocated to each territory of Empire to meet its immediate possible dangers (and Lord Birkenhead stressed this in connection with India) since succour can only reach it by way of the sea, and that will have to await the necessary command of the sea-routes—possibly some considerable time being required to attain this.

The primary responsibility of the navy is the protection of trade, and the vital trade of Empire as a whole and of the Dominions individually is in possible danger in war, not in any fixed area, but anywhere at sea over the globe.

Consequently, while it is essential that the several territories of Empire require certain minimum land and air forces individually without the necessity of laying down a fixed total force as any pre-requisite, a definite total force for the Dominions and England is a pre-requisite of any arrangement for the security of maritime commerce.

This strategic necessity for a total naval aggregate appeared to be undisputed at the C.I.D. meeting.

The Prime Minister of the Union of South Africa recognized this point and at the same time pointed out the individual responsibility of the Dominions towards the League of Nations.

He suggested, as a means of meeting both requirements, that separate quotas should be allotted to the component parts of Empire, that care should be taken that the total of these should not fall below the total aggregate



considered essential, and further, that should any one Dominion feel that other national responsibilities prevented it from building up to its allotted quota some other portion of the Empire should be permitted to increase its naval programme, so long as the total of the originally allotted quotas was not exceeded.

Such an arrangement should certainly satisfy the requirements of security.

Lord Robert Cecil pointed out that foreign powers would in reality only be concerned with the total naval forces of the Empire and would base their claims for quotas on that total.

The Secretary of State for the Dominions pointed out that the actual force required for the protection of the trade of any Dominion was really the whole Empire naval forces, and that any one Dominion was probably not in a position to provide single handed the measure of security necessary for its trade scattered overseas.

The point has been raised that the Dominions would more readily accept quotas allotted individually to them by the League of Nations than a defined *share* of a single quota allowed to Empire.

This is perfectly true, but the whole trend of Empire arrangement has been to avoid any allocation of defined *shares* of responsibility in any co-operative action whether of defence or other national commitment.

The Admiralty have indicated for the conference the total force which they consider the Empire needs for protection of its commerce, individual and collective, under existing known conditions.

From a professional and strategic point of view I cannot question the correctness of this total.

No attempt has been made in the memorandum to the Conference to divide this into individual shares, and it would appear that the spirit of the resolution of the 1923 Conference on naval defence animates the attitude of the responsible departments of the British Government in this respect.

To summarize I would submit:

(1) That as regards Military and Air Forces the recommendations of the experts responsible for those forces should, on the strategic issue, be the governing consideration.

(2) That as regards the naval aspect of defence,

(a) It should be recognized that the problem is distinct and different from that of the other forces.

(b) It should be admitted that a minimum total force is required as a pre-requisite of any arrangement as to how the naval forces of the Empire are to be allocated.

(c) That so long as that total minimum is not, in fact, prejudiced, it is a matter of political responsibility and will not affect naval security, whether the Empire has one or seven naval quotas.

WALTER HOSE

219.

*Le Gouverneur général au secrétaire aux Dominions*  
*Governor General to Dominions Secretary*

TELEGRAM

Ottawa, March 21, 1927

Your telegram March 7th. Hospital and convalescent accommodation for British troops of the Shanghai Defence Force during hot weather. My Ministers state that the Canadian Department of Soldiers' Civil Re-Establishment would be prepared to provide up to one hundred beds for either general treatment or convalescent purposes in Shaughnessy Hospital on the outskirts of Vancouver, and could in addition erect temporary shelters, either tents or huts, on the property, which is sufficiently large for a considerable number of additional convalescent patients who could utilize the dining room and other facilities of the hospital proper. Shaughnessy Hospital, which is a standard institution for the treatment of ex-service men in British Columbia, has accommodation for three hundred patients and is at present occupied by one hundred and forty. The Department of Soldiers' Civil Re-Establishment provides treatment in its general hospitals for ex-Imperial Service men in co-operation with the British Ministry of Pensions at cost. Shaughnessy being one of the hospitals used for this purpose. Recent costs of Shaughnessy have been approximately two dollars and seventy cents per patient per day. The cost might be reduced if additional patients were taken into the institution. There would be certain additional costs in connection with any temporary accommodation provided for convalescents outside the main institution. The Department has already the main staff required and would have no difficulty in providing any additional staff necessary. Stores, equipment and supplies would not be required in addition to what are available or could be procured here. It would seem desirable, if this service is undertaken, that financial arrangements should be on the same basis as the agreement with the British Ministry of Pensions, that is, that all treatment and care necessary should be supplied at cost. Details as to time and method of payment could be determined when agreement definitely made.

220.

*Le Gouverneur général au secrétaire aux Dominions*  
*Governor General to Dominions Secretary*

TELEGRAM

Ottawa, April 1, 1927

My Ministers represent that in 1920 His Majesty's British Government presented to the Canadian Government two Destroyers, the *Patriot* and *Patrician*, built during the war under war conditions of manufacture. These Destroyers have been in constant use ever since, and have been utilized for

patrol purposes and for the training of the personnel of the Royal Canadian Navy, the Royal Canadian Volunteer Reserve and the Royal Canadian Naval Reserve.

The reports of recent inspection indicate that both these vessels have about reached the limit of their useful life. The hulls are showing signs of wear and of strain, and it does not seem that either of these vessels will last much longer as efficient craft. The inspections also show that the boilers of both vessels are in need of heavy and expensive repairs.

The technical officers of the Naval Service consider that it would not be economical to spend the large amount of money involved in these repairs on vessels which at the best would only give a short time of service.

Owing to the unsettled situation which has prevailed during the last few years, it has not been thought advisable to decide on any far reaching programme regarding the method of providing Naval craft. The Government is, at the present time, giving serious and earnest consideration to this question, but desires, in the meantime, to continue the training and to fully maintain the efficiency of the Canadian Naval Service, and, therefore, the Minister of National Defence wishes to negotiate with the Admiralty for two Destroyers of a more modern type.

If this suggestion is favourably received by the Admiralty, the *Patriot* and *Patrician* would be stripped of armament and of equipment useful in the Canadian Naval Service, and then the ships themselves would be sold for scrap, the proceeds being credited to the Admiralty as in the case of the arrangement in connection with the light cruiser *Aurora*.

Should the Admiralty be favourably disposed to supplying such Destroyers, my Ministers enquire what vessels would be suggested, on what terms, and when they could be delivered.

As it is not desired to spend any further money on the *Patriot* and *Patrician*, but at the same time to continue sea-going work with as little break as possible, a reply by telegraph would be appreciated by the Minister of National Defence.

221.

*Le secrétaire aux Dominions au Gouverneur général*

*Dominions Secretary to Governor General*

TELEGRAM

London, April 14, 1927

Your telegram March 21st. Hospital and Convalescent accommodation at Shaughnessy Hospital for British troops of Shanghai Defence Force. Army Council gratefully accepts offer of Canadian Government and desires to express their appreciation of Canadian Government's willing assistance in this matter. Council would be glad if arrangements could be made as soon as possible for fifty hospital beds and in addition for suitable accommodation for two hundred convalescents. It may be necessary to expand accommodation

later to provide for four hundred convalescents altogether. The Army Council are prepared to agree to bear (i) Actual cost of treatment in hospital (ii) Additional expenses on the Staff, hutting, etc., necessitated by creation of a convalescent camp, (iii) Actual cost of maintaining such camp. They suggest that details regarding rendering of claims by Canadian Government and audits of such claims by or on behalf of Council can best be settled by direct correspondence between War Office and Department of Soldiers' Civil Re-Establishment and it is presumed that there will be no objection to this procedure. Army Council proposes to send one Officer and three other ranks of R.A.M.C. to Vancouver to assist the Canadian authorities in any way that may be possible and to be responsible for maintenance of necessary Army records (Medical and otherwise) for, and the issue of pay to British personnel who are sent to Vancouver. Army Council would be glad if necessary arrangements could be put in hand and if they could be notified as soon as possible when accommodation in Hospital and Camp will be available for reception of sick or convalescent Officers or soldiers from China.

Army Council adds that they have had under consideration disciplinary position of British troops who may be sent to Hospital Camp. They suggest in order to avoid possible difficulties which might otherwise arise such troops should for disciplinary purposes be under the command of Officers of the British Army and that any Courts Martial that may be necessary should be composed of such officers. It is probable that necessary officers will always be available in sufficient numbers among convalescent officers in camps for Courts Martial to be set up. Please telegraph if your Ministers concur in this proposal and in other points raised by Army Council.

222.

*Le Gouverneur général au secrétaire aux Dominions*  
*Governor General to Dominions Secretary*

TELEGRAM

Ottawa, April 16, 1927

Your telegram April 14th. Hospital accommodation for British troops of the Shanghai Defence Force at Vancouver. Department of Soldiers' Civil Re-Establishment is ready to accept immediately 150 convalescent or active treatment cases and would be glad to be advised in advance of the date they may be expected to arrive in Vancouver. In addition, immediate arrangements are being made to erect necessary temporary quarters for care of 100 extra convalescents. With reference to the statement that it may be necessary to accommodate additional convalescents up to 400, my Ministers state that if a number of cases that are being sent over on completion of treatment be returned to England, it would be possible to accommodate them in other departmental hospitals east of Vancouver without the erection of additional accommodation. The expenses of shipping them further east would then not be a factor since they would be proceeding on their way to eastern ports for transportation to the British Isles. No action is being taken to provide additional accommodation over and above that already set out pending



receipt of further information as to possibility of caring for situation in hospitals further east. All accounting in connection with this matter will be carefully kept separate for inspection as may be required. The proposals regarding documentation and discipline are satisfactory to the Department.

223.

*Le secrétaire aux Dominions au Gouverneur général*  
*Dominions Secretary to Governor General*

TELEGRAM

London, June 9, 1927

I am sorry it has not been possible to reply earlier to your telegram of April 1st. H. M. Government in Great Britain are much interested to know that His Majesty's Government in Canada are giving consideration to the question of the future method of providing naval craft and note that in the meantime it is desired to negotiate for two destroyers of more modern type than *H.M.C.S. Patriot* and *Patrician*.

Admiralty suggest, however, that instead of obtaining two more modern destroyers, it might be preferable to the Canadian Government to order two new type sloops of the type similar to those which are about to be built for the Royal Navy; these sloops are particularly suitable for the general training of personnel and would, it is thought, form an essential part of any naval force which the Canadian Government might eventually decide to maintain. Two such vessels as those indicated could be constructed in this country in 18 months or in Canada in slightly longer time. The estimated cost of construction of each ship in this country would be £100,000 and probable life estimated not less than 16 years. Specifications and drawings follow by post.

If the Canadian Government are disposed to consider this alternative favourably and if the condition of *H.M.C.S. Patriot* and *Patrician* is such that these vessels would not last until the proposed sloops were ready, Admiralty would endeavour to arrange to lend two destroyers of the "S" Type on the understanding that the Canadian Government would undertake to bear the cost of bringing the vessels forward for service. This is estimated as approximately £11,000 per vessel.

Admiralty ask, however, that it may be explained that the last mentioned proposal must be conditional on any developments resulting from the coming Naval Disarmament Conference at Geneva.

224.

*Le secrétaire aux Dominions au secrétaire d'État*  
*aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM

London, August 5, 1927

IMMEDIATE. CONFIDENTIAL. Lords Commissioners of the Admiralty have suggested that it might be of assistance to His Majesty's Government in Can-



ada in considering tenders for purchase of *H.M.C.S. Aurora* (which it is observed were to be received by 6th August) if they were informed of action taken in this country when disposing of obsolete warships in order to ensure compliance with Article 18 Washington Naval Limitation Treaty 6th February 1922 prohibiting disposal of any war vessel in such a manner that it may become a vessel of War in Navy of a Foreign Power.

No sale is permitted here for other purposes than breaking up and Admiralty practice is to attach to contract of sale condition that vessel is to be broken up and shall be open to inspection during breaking up. Purchasers are also required to sign a bond for value of ship guaranteeing that they will break vessel up to satisfaction of Admiralty. This rule is only departed from in most exceptional circumstances and then only when ship is of commercial type adapted to war purposes. In such cases purchaser would probably be made to sign bond for value of vessel guaranteeing not to resell her without obtaining Admiralty sanction.

In view of importance of avoiding any action which might be represented as failure to comply with provisions of Article 18 Washington Treaty particularly at the present time Lords Commissioners of the Admiralty think that Canadian Government may wish to consider adoption of similar procedure in case of *H.M.C.S. Aurora*. They recognize that adoption in this case of conditions on the lines described might reduce proceeds of sale of vessel which will be credited to them in accordance with Paragraph 6 of Governor General's telegram April 1st but in the circumstances mentioned they are prepared to accept possibility of such reduction.

225.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM

Ottawa, November 9, 1927

SECRET. With reference to your telegram of June 9th, 1927 to Governor General, relative to the destroyers *Patrician* and *Patriot*, His Majesty's Government in Canada has decided to ask for an appropriation during the coming session of Parliament, with a view to placing contracts in England for the construction of two new destroyers, to be delivered one at a time but both within three years, to replace the *Patrician* and *Patriot* which have become no longer serviceable.

In view of the unserviceable condition of the *Patrician* and *Patriot* and the necessity of having naval craft available for training purposes until these vessels are replaced, His Majesty's Government in Canada concurs in the arrangement contained in paragraph 3 of your telegram, whereby two "S" type destroyers will be temporarily placed at their disposal, on terms that His Majesty's Government in Canada will pay the cost of reconditioning these destroyers, amounting to it is estimated to £11,000 each.

It is understood that the Director of the Naval Service, when in London in August last, was informed by the Admiralty that the two "S" type vessels which would be allotted if arrangements were consummated would be H.M. Ships *Torbay* and *Toreador*.<sup>1</sup>

In the event of these arrangements being agreeable to His Majesty's Government in Great Britain, it would be appreciated if information could be telegraphed as soon as possible, indicating the estimated time necessary for the reconditioning of the two "S" type destroyers, as it is desired that the training and operations should proceed with as little interruption as possible.

The proposals of His Majesty's Government in Canada, with regard to the intended placing of contracts for the new vessels, should not be made public until the Estimates for the coming financial year are tabled in the Canadian House of Commons.

226.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

DESPATCH 573

Downing Street, December 3, 1927

Sir,

With reference to the Governor General's telegram of June 22, I have the honour to state that the Army Council has given further consideration to the question of hospital accommodation at Vancouver for British troops of the Shanghai Defence Force.

2. As His Majesty's Government in Canada are probably aware, it has not been found necessary to utilise the accommodation which they so readily made available, to the extent anticipated, and the Army Council have now decided that no further patients should be sent from China to Vancouver during the present winter and that those already there, and not fit for duty, should be sent to the United Kingdom as soon as they are fit to travel.

3. At the same time, the Council considers it desirable that facilities should be retained for sending home a certain number of invalids from China via Canada during the summer months next year, and they would be grateful if His Majesty's Government in Canada could arrange for a small number of beds (say three) to be kept available at Vancouver for this purpose.

4. In normal circumstances, the Army Council do not expect that they will require more accommodation than this at any one time, but the position might of course be altered, if, e.g., it were necessary to increase the force in China again.

<sup>1</sup> Rénovés en temps et rebaptisés *Champlain* et *Vancouver*, ils appareillent pour le Canada en mars 1928.

<sup>1</sup> The *Torbay* and *Toreador* were duly reconditioned and in March, 1928, renamed *H.M.C.S. Champlain* and *H.M.C.S. Vancouver*, they set sail for Canada.

5. I should be glad to learn whether His Majesty's Government in Canada can see their way to meet the wishes of the Army Council in the matter.

I have etc.

LOVAT  
for the Secretary of State

227.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

DESPATCH 48

Ottawa, February 3, 1928

Sir,

I have the honour to acknowledge your despatch Canada No. 573 of December 3, 1927, with reference to the question of further hospital accommodation at Vancouver for British troops of the Shanghai Defence Force, and to state that His Majesty's Government in Canada will have pleasure in co-operating as suggested by arranging to keep a small number of beds available at Vancouver for the use of invalids sent from China via Canada during the summer months of the current year.

I have etc.

O. D. SKELTON  
for the Secretary of State  
for External Affairs

228.

*Le secrétaire d'État aux Affaires extérieures au Haut commissaire  
Secretary of State for External Affairs to High Commissioner*

TELEGRAM 28

Ottawa, April 23, 1929

STATE. IMMEDIATE. CONFIDENTIAL. We have been informed question of Chemical Warfare and ratification of Geneva Gas Protocol has come up in meeting of Preparatory Disarmament Commission. British Government has arranged for meeting of Imperial Defence Committee today at four thirty to consider instructions to be given Lord Cushendun. British High Commissioner's Office informs us that British Government would appreciate your attendance with other High Commissioners at this meeting. Without prejudice to position taken hitherto regarding participation in Imperial Defence Committee meetings Prime Minister authorizes you to attend if possible and to state that you have no instructions as to policy of Canadian Government but will report proceedings; also that Canadian Defence authorities are considering question and we will communicate views as soon as possible.

229.

*Le Haut commissaire au secrétaire d'État aux Affaires extérieures*  
*High Commissioner to Secretary of State for External Affairs*

TELEGRAM 30

London, April 24, 1929

Your two cablegrams Nos. 28 and 29 with reference to the Geneva Gas Protocol were received this morning, but meeting having been held yesterday, we got into touch with the Dominions Office and explained why the High Commissioner was not present. Dominions Office have reported direct to you proceedings of the meeting, and copy has been sent to us for future guidance, if necessary.

230.

*Le secrétaire d'État aux Affaires extérieures*  
*au ministre aux États-Unis*

*Secretary of State for External Affairs to Minister in United States*

DESPATCH 356

Ottawa, October 10, 1929

CONFIDENTIAL

Sir,

I have the honour to enclose herewith for your information copy of a telegram dated the 7th instant received from the British High Commissioner, to whom it had been addressed by Sir Esme Howard, inviting the observations of the Canadian Government on certain points discussed between Mr. Ramsay MacDonald and the President of the United States at their recent Conference, together with copy of the reply which I have sent to Sir William Clark.

I have etc.

W. H. WALKER

for the Secretary of State  
for External Affairs

[PIÈCE JOINTE 1/ENCLOSURE 1]

*L'ambassadeur britannique aux États-Unis au Haut commissaire britannique*  
*British Ambassador in United States to British High Commissioner*

TELEGRAM

Washington, October 7, 1929

VERY CONFIDENTIAL. Addressed to Foreign Office telegram No. 493 repeated to Ottawa. Following from Prime Minister. Begins. It is proposed to issue from White House on Wednesday evening for publication on Thursday morn-

ing a statement outlining range of subjects touched upon during prolonged interchange of views which has taken place at President's camp today. Among points to be mentioned in statement are the following:

#### NAVAL STATIONS

With a further view to reducing the fear and friction that comes with fear we have obtained the opinion of our general board of Navy that existing military and naval stations of Great Britain in western hemisphere are not in a condition to be a menace to United States.

Great Britain will not hereafter establish any military or naval stations in her possessions in western hemisphere nor alter any such existing stations in such a way as in either case to become a menace to the United States.

Reciprocally the United States makes same agreement as to eastern hemisphere. It is understood however by both parties that above declaration does not alter or supersede provisions of Article 19 of Washington Treaty 1922 for limitation of naval armament.

Such western hemisphere is to be defined as that portion of the Globe lying west of 30 meridian and east 170 meridian and eastern hemisphere as remainder of the Globe.

#### RIGHTS AND RESPONSIBILITIES AT SEA

We recognize that somehow most troublesome questions in international relations are those arising out of rights and immunities at sea during war. Controversies and disputes engendered by this subject have in the past been pregnant with danger aggravating or extending hostilities. Misunderstandings and fears arising from this source have been frequent but we believe that cause of friction is avoidable between our two countries. We have resolved, therefore, that we will examine this question fully and frankly.

President hopes that food ships will be declared free from interference in time of war thus removing starvation of women and children from weapons of warfare and reducing necessity of naval arms for protecting avenues of food supplies. Such a proposal would protect all vessels laden solely with food supplies in same fashion as hospital ships are now protected. Ends.

I should be grateful for any observations Canadian Government wish to offer on above by Tuesday morning.

HOWARD



[PIÈCE JOINTE 2/ENCLOSURE 2]

*Le secrétaire d'État aux Affaires extérieures  
au Haut commissaire britannique*

*Secretary of State for External Affairs to British High Commissioner*

SECRET AND CONFIDENTIAL

Ottawa, October 8, 1929

Dear Sir William Clark,

With reference to the very confidential telegram from the British Ambassador at Washington, dated the 7th instant, which was received from your office by my private secretary, in which the observations of the Canadian Government are invited on certain points to be mentioned in a statement which it is proposed to publish in regard to matters discussed between Mr. Ramsay MacDonald and the President of the United States, I should be grateful if you would be good enough to send a reply to Sir Esme Howard in the following terms:

The Canadian Government observes that Mr. MacDonald proposes that Great Britain will not hereafter establish any military or naval stations in her possessions in the Western Hemisphere nor alter any such existing stations in such a way as in either case will become a menace to the United States. The Canadian Government will if desired make a similar declaration in respect to Canadian territory. Necessary improvements and modernization of Canadian Pacific and Atlantic ports to meet the needs of Canadian defence and to facilitate the maintenance of Canadian neutrality are understood to be as they are intended, not a menace of any kind to the United States. The Canadian Government considers that the proposal to examine frankly and fully the question of rights and immunities at sea is highly desirable and that the suggestion of the President of the United States in respect to food ships merits examination.

Yours sincerely,

W. L. MACKENZIE KING

231.

*Le sous-secrétaire d'État aux Affaires extérieures par intérim  
au ministre aux États-Unis*

*Acting Under-Secretary of State for External Affairs  
to Minister in United States*

PERSONAL AND CONFIDENTIAL

Ottawa, October 10, 1929

Dear Mr. Massey,

With reference to the Secretary of State's official despatch Confidential, No. 356 of today's date relative to the matters discussed between Mr.

Ramsay MacDonald and the President, Mr. King wishes me to let you know that it was not with his wish or approval that the channel of approach used in this matter, through the British High Commissioner, which he does not consider the appropriate one, was adopted.

Yours very truly,

W. H. WALKER

232.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM B.168

London, November 9, 1929

IMPORTANT. MOST SECRET. Following from Prime Minister for your Prime Minister. Begins. You will like, I think, to have following summary of my conversation with President Hoover during my visit to the United States of America last month on the subject of belligerent rights and naval stations in the Western Hemisphere.

(1) RIGHTS AND IMMUNITIES AT SEA IN TIME OF WAR

President Hoover drew attention to the view widely held in the United States that good relations between the two countries could never be fully established until problems associated with capture of property at sea in time of war had been squarely faced. Senator Borah, who was one of the most prominent supporters of this theory, remained of opinion that question of "the freedom of the Seas" should be tackled before conclusion of an agreement on naval disarmament. The Naval Construction Act furthermore contained clause inviting President to negotiate treaties on this subject with other Powers before meeting of Naval Conference, which was to be held in 1931 under the Washington Naval Treaty. Instead of August 1931 this Conference was now to be held in January 1930. The President admitted this provision in Act was not mandatory upon him—nevertheless he could not possibly afford to altogether ignore it. Mr. Hoover and the Secretary of State it was clear realized dangers and difficulties surrounding this question but they felt impelled to suggest that the whole matter should be examined by a body of Jurists representative of important Naval Powers, who should conduct a thorough enquiry and report their views as to any "possible or constructive" method of reaching a settlement. The President then developed at some length his scheme that, as part of such a settlement, ships laden exclusively with food supplies should be declared immune from capture in time of war

and thus placed in the same category as hospital ships or ships carrying medical supplies. This idea is the direct outcome of his own experience and activities during the war and has long been in his mind.

The President, seeing that conservation of food supplies of the United Kingdom in time of war was one of the principal preoccupations of every British Government, suggested a general treaty prohibiting capture of food ships which should assist the progress of naval disarmament and prove of great value to us.

My reply drew attention to risk involved in raising this question, particularly as naval questions had been safely got out of the way. The whole subject had been examined by a committee appointed by the late Government and they had found it replete with dangers and complexities of every sort. To touch it now might mean sacrificing much that had recently been achieved in other directions. I said as regards food ships scheme that I would be quite prepared to look into it carefully but I warned him that, judging by information at present available, some at least of my advisers at home were likely to be opposed to it on the ground that cutting off of food supplies had long been regarded as a very powerful method of applying naval pressure and perfectly legitimate. Application of this method of pressure might prove one day to be necessary part of measures to be taken by the Powers of the world against a Power or Powers guilty of going to war in defiance of the Kellogg Pact. Furthermore, even if a practicable method could be found of safeguarding food ships from attack from the air while in port—of which I was by no means sure—there remained difficulty that such a treaty would presumably have no guarantee behind it. A treaty-breaker, in other words, would not apparently be subject to any international sanction. Finally there would have to be considered the question of an apparent conflict of Article 16 of the Covenant of the League of Nations.

President declared that it was very unlikely whatever provocation offered the world would ever agree to another food blockade. Signatory States moreover, even after conclusion of such a treaty would remain free to close their frontiers to export of food stuffs to an outlaw State. Regarding attack from the air while food ship was in a port of one of the belligerents, this could be overcome by assigning certain ports or sections of ports to handling of food ships only, and ships would, of course, have a distinctive marking in the same way as hospital ships. On the subject of a guarantee the President was only able to say that it was not reasonable to suppose that United States would stand aside and watch violation with indifference, having taken the initiative in securing conclusion of such a treaty. The President finally hinted that conclusion of a treaty rendering food ships immune from capture would probably make it unnecessary to proceed any further into this complex problem of rights of belligerents and neutrals. I think this is also certainly in the minds of the Secretary of State and his Department.

(Part II follows immediately)

233.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM B.168

London, November 10, 1929

IMPORTANT. SECRET. (Part II). Seeing that the President and his Administration were evidently of the opinion that the question of freedom of the seas must now be raised in one form or another and that if we adopted a *non possumus* attitude we should shortly be faced with summoning of an International Conference or Commission of Jurists, I said that I was quite prepared when I returned home to go carefully into the whole subject, but that if matters were to be discussed internationally the right method would be to begin by preliminary and informal discussions, on lines of recent naval conversations, between our two Governments. Even such discussions should be postponed at least until after Five-Power Naval Conference. Mr. Hoover agreed on first point after some hesitation though he added separate conversations on this question between United States and ourselves were likely to arouse suspicious criticism in many quarters both abroad and in the United States. Mr. Hoover agreed that actual discussions might be postponed until after Five-Power Conference but declared that if he was to carry Senator Borah with him and also others who shared Senator's views it was important to issue a statement during my visit to the effect that we were ready at the appropriate time to discuss this question. On October 9 statement was issued accordingly.

(2) BRITISH NAVAL STATIONS IN WESTERN HEMISPHERE

The President observed, in introducing this subject, that our naval stations in proximity to United States of America had been made pretext for good deal of hostile propaganda against idea of a naval agreement with ourselves. It is alleged by those who were opposed to an understanding that possession of these naval stations gave Empire a great strategical advantage of which account should be taken in any naval agreement, and reiteration of this view by those favouring a United States Navy had undoubtedly had its effect in country as a whole. No responsible authority in United States of America regarded these stations as a real menace to the United States of America, but there was great deal of misapprehension on the subject in popular minds, and chance of satisfactory agreement on naval question would indubitably be improved if this controversy surrounding those naval stations could be stilled once for all. Hoover said that if His Majesty's Government would be prepared to declare that Great Britain had no intention of causing her stations in Western Hemisphere to be menace to the United States of America, United States Government would, in regard to their stations in Eastern Hemisphere, make a similar declaration.



The President admitted frankly that this *quid pro quo* would be of little use to us except as a matter of form because United States had only one naval station in the Eastern Hemisphere namely Corregidor, in the Philippines, and this was already covered by Article 19 of the Treaty for the Limitation of Naval Armaments, 1922. Nevertheless he hoped that we would carefully consider the matter.

Our naval stations at Bermuda and in the Caribbean, I replied, were only fortified to the extent necessary to defend them against raiders or a weak force and could not by any flight of the imagination be regarded as a menace to the United States of America. I took note nevertheless of what the President had said about use which was being made of existence of these stations by those who were opposed to naval agreement. Of course we had no intention of so modifying the existing fortifications or establishments as to turn them into menaces to the United States and I did not believe there could be any serious objection to placing this absence of intention on record, but I thought that we ought to begin with a definite statement from the United States side that these stations were not regarded at present as a menace by the Government of the United States. Hoover promised to secure a statement to this effect from United States Naval Board although he added somewhat grimly that this would probably be no easy task for him.

When question of Halifax was mentioned I said this was a matter for the Canadian Government and I could not anticipate at all what their view would be. The Caribbean and Canadian naval stations seemed to me to be in quite separate categories and difficulty as regards latter appeared to be that Canada might reasonably expect some corresponding declaration from United States side in regard to naval stations in the United States of America in proximity to Canadian-United States frontier. On this latter point it was intimated to me that there was little prospect of any declaration being forthcoming in regard to naval stations of the United States in Western Hemisphere.

It has been now decided that question of belligerent rights could be considered by a special sub-Committee of Committee of Imperial Defence presided over by me and consisting of Secretary of State for Foreign Affairs, Secretary of State for Dominion Affairs, Secretary of State for the Home Department and three service Ministers with expert assessors. Chief of Staff of sub-Committee is considering question raised as to naval stations. Ends.

234.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM B.203

London, December 14, 1929

IMPORTANT. SECRET. Following from Prime Minister for your Prime Minister. Begins. I am arranging for a Sub-Committee of the Committee of Imperial Defence to be set up in order to study the various problems which will



arise in the near future in connection with proposal for land and air disarmament. The Sub-Committee as at present contemplated will include Secretary of State for Foreign Affairs as Chairman, the Parliamentary Secretary to the Admiralty, the Under-Secretary of State for War, the Under-Secretary of State for Air, Parliamentary Under-Secretary of State for Foreign Affairs, Lord Cecil and Departmental Adviser.

We should greatly welcome the assistance of the Dominion Governments in the work of this Committee and I hope you will see your way to nominate a representative. It will be appreciated that if, as we confidently expect, the Naval Disarmament Conference proves successful great impetus will be given to the cause of general disarmament and to final stage of preparation for a general Disarmament Conference under the auspices of the League of Nations. It is contemplated that the League Preparatory Commission should reassemble as early as may be practicable after Naval Disarmament Conference and it is very desirable, therefore, that we should without delay proceed with a review of the land and air aspect problems which will then come up for discussion.

It has occurred to us that if Sub-Committee referred to above met during and/or immediately after Naval Disarmament Conference it might be possible for Dominion representatives who will attend that Conference to attend also meetings of Sub-Committee. The co-operation of these representatives would, I am sure, be of the greatest value and I should be grateful if you would consider this suggestion. Ends.

235.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM B.216

London, December 26, 1929

SECRET. My telegram of the 14th December, Circular B.203. Sub-Committee on Land and Air Disarmament. It will be recalled that the Assembly of the League of Nations in September last passed a Resolution asking Council to direct Committee on Arbitration and Security to consider possibility of establishing a draft General Convention on the lines of Model Treaty to Strengthen Means of Preventing War. The Assembly also passed a Resolution asking that Arbitration and Security Committee, in cooperation with Financial Committee should consider draft Treaty regarding Financial Assistance with a view to drawing up a complete text suitable for signature at the earliest possible moment. In view of the fact that Arbitration and Security Committee will probably meet in March, we have thought it desirable to arrange for examination of these instruments in this country at once. Most convenient

procedure has seemed to be their consideration by Sub-Committee of Committee of Imperial Defence referred to in my telegram Circular B.203.

The United Kingdom members of the Sub-Committee held a preliminary Meeting on the 19th December and arranged to hold further Meetings on 7th January and 10th January with probably two Meetings a week thereafter. It is hoped by this means to dispose of these two questions at an early stage of Committee's proceedings. Chairman would much appreciate assistance of Dominion representatives in this aspect, also of work of Sub-Committee. Would it be possible with this in view for Dominion representatives to be appointed to attend such meetings of Sub-Committee as may take place prior to beginning of Naval Conference or to arrival of such Dominion Delegates to Conference as may be nominated as members of Sub-Committee?

236.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 7

Ottawa, January 14, 1930

Your telegrams Circular B.203 and B.216 regarding meetings of the Sub-Committee of the Committee of Imperial Defence have been received. His Majesty's Government in Canada will have pleasure in discussing with His Majesty's other Governments concerned the questions referred to as in the case of any others matters of joint interest. As has previously been indicated however we do not consider it would be appropriate to provide for such discussion by sending representatives to meetings of the Imperial Defence Committee which is a Committee of His Majesty's Government in the United Kingdom. In any case the questions involved in the draft treaty regarding financial assistance and the draft convention on strengthening the means of preventing war appear to be of a political rather than of a technical character. We are inclined to attach weight to the view that complications might arise if land and air force questions were given formal consideration while Naval Conference is in session and had assumed that the course proposed by Mr. Ramsay MacDonald in the House of Commons on November 5, 1929, would be followed, namely, "when we have got the Five-Power Conference out of the way then will be the time for the consideration of the question of general disarmament". We should however be glad to exchange views through the ordinary channels, by correspondence or through the High Commissioners and the Minister of National Defence will have pleasure in taking advantage of his presence in London at the Naval Conference to confer on any question with the appropriate member of His Majesty's Government and to discuss the matter with the Canadian Government on his return.

237.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

DESPATCH 26

Downing Street, April 10, 1930

SECRET

Sir,

With reference to my secret telegram Circular B. No. 216 of the 26th December, I have the honour to state, for the information of His Majesty's Government in Canada, that the Sub-Committee of the Committee of Imperial Defence set up to study certain questions in connection with land and air disarmament has now completed its examination of the draft Convention for Financial Assistance, which, in accordance with the resolution of the Ninth Assembly of the League of Nations (League of Nations Paper A 69, 1929, IX) is to be further considered by the League Committee on Arbitration and Security, in co-operation with the Financial Committee, at its next meeting. A copy of the Report<sup>1</sup> of the Sub-Committee of the Committee of Imperial Defence is enclosed.

2. The enclosed Report has been considered by His Majesty's Government in the United Kingdom, who have approved it on the understanding

(1) that the Convention would not come into force until a general disarmament convention in accordance with Article 8 of the Covenant of the League of Nations has been brought into operation; and

(2) that the liability of each guarantor Government is definitely and strictly limited to the share assigned to it in the draft Convention upon the terms indicated.

3. It is accordingly contemplated that the Report, subject to the above understanding, should be adopted as the basis of the instructions to the representatives of the United Kingdom at the forthcoming meeting of the Arbitration and Security Committee at Geneva.

4. It is regretted that copies of Appendix II to the Report, referred to in the last paragraph, are not available. This Appendix consisted of League of Nations Paper No. A 10, 1929, II which was circulated from the League Secretariat under the date 15th March, 1929.

I have etc.

PASSFIELD

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<sup>1</sup> Non reproduit.

<sup>1</sup> Not printed.

238.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

DESPATCH 160

Ottawa, May 6, 1930

My Lord,

With reference to Your Lordship's despatch No. 182 of the 7th April asking that a small number of beds be kept available at the Shaughnessy Hospital, Vancouver, for members of the Shanghai Defence Force, I have the honour to inform you that the Department of Pensions and National Health states that arrangements formerly made at the hospital for the accommodation of the members of the Shanghai Defence Force are being continued indefinitely.

I have etc.

O. D. SKELTON  
for the Secretary of State  
for External Affairs

239.

*Mémorandum du Directeur du Service naval  
Memorandum by Director of Naval Service*

SECRET

Ottawa, August 21, 1930

## NAVAL DEFENCE POLICY IN CANADA

In any consideration of defence policy I would submit that it is essential first of all to enquire into the *direct* dangers to which the country and its people would be exposed in the event of being forced into a state of belligerency, and the factors which, so far as are known or can be foreseen, bear immediately upon those direct dangers.

Indirect dangers may, however, be of extreme importance and should be given due consideration later.

## DIRECT DANGERS

The Naval Staff, in putting forward recommendations regarding the Naval requirements of the Dominion, has not lost sight of the following facts:

- (1) It is highly improbable we should be conducting hostilities single-handed;
- (2) War with the United States is not taken into consideration;

(3) In the cases of war with any overseas power we are in a most fortunate geographical position in that we are 3000 miles away from any such enemy on one side, and 6000 miles on the other.

In view of the latter factor, the actual invasion of our territory is not one of the direct dangers which calls for Naval forces specifically to deal with since, given a reasonable Military force which can be mobilized without undue delay, any enemy whose territories are situated so far away from Canada would be too pre-occupied with other aspects of the war to be able to embark on an undertaking of such magnitude and so hazardous as the despatch of an invading force so far overseas. Given the above premises, the next step towards the deduction of a reasonable, economical, and effective Naval defence force is to arrive at the answers to the following three questions:

(1) Wherein does the greatest direct danger to Canada lie in the event of being engaged in hostilities?

(2) What is the probable extent of the danger,

(3) What is the essential composition of the force which should be maintained in peace time to cover the really vulnerable point in our national life?

*(1) Wherein does the greatest direct danger to Canada lie in the event of being engaged in hostilities?*

The most vulnerable point open to attack in Canada—the point where the most vital damage could be effected to her national existence, lies in her overseas trade.

In particular the attack could be most effectively carried out at the focal points of that trade in the vicinity of Canadian coasts.

The extent of Canadian overseas trade, export and import, at the present time is over a billion dollars annually.

On the flow of the export of Canadian products on the one hand, and of the import of goods in exchange, both for the life and comfort of our people, and for the purpose of the development of our natural resources on the other, depends the continuance of the economic and industrial existence of the country from coast to coast.

This trade goes and comes in fan-like shape, spreading from the Canadian ports on the Atlantic and Pacific to the outermost ends of the world. At the outer extremities of the fan—say on the Indian Ocean or off South Africa—an occasional Canadian cargo might be captured by enemy action, but the nearer you approach the focal point of the cone, the more completely are *all* Canadian trade routes covered.

Here lies the area in which the most devastating action can be taken against the daily life-blood of Canadian industry. Here is the most vulnerable point of attack where, within a limited area, the industrial and economic life of our people can be most effectively paralyzed.



(2) *What is the probable extent of the danger?*

Here again, as in the consideration of the probabilities or otherwise of invasion, one can look with comfort on the fortunate geographical situation of Canada before mentioned.

In view of the operations of greater importance which would call for the employment of his Naval forces, any deflection of major units of the enemy fleet for the purpose of an attack on the focal points of Canadian trade is improbable.

But to paralyze the ability of Canada to continue production and to export that production could, in the absence of certain defensive Naval forces, be profitably and easily effected by the despatch of minor units by the enemy.

A light cruiser or a few armed merchantmen might well prohibit the ingress or egress of any shipping to or from Canadian ports, also minelayers of either surface or submarine type, could at least hamper the freedom of movement of merchant shipping, and expose it to grave dangers. Other more pressing requirements might prevent the despatch of the assistance we should call for from the other friendly navies participating in the war.

(3) *What is the essential composition of the Naval force which should be maintained in peace time to cover the really vulnerable point in our national life?*

In the particular problem of the defence of the focal points of Canadian trade against the probable scale of attack, it is more important to have *numbers* than individual unit size and offensive power.

One cruiser is more than powerful enough to deal with an armed merchant raider—her range of visibility is limited—she could only deal with one raider at a time while others out of gun range and sight could operate undisturbed.

On the other hand, two or three destroyers would render the position decidedly dangerous, especially in the case of a night attack, for a light cruiser. Each would be a match for most armed raiders. For search purposes they would cover a large radius of effective action and concentration on any point could be achieved with rapidity.

For submarine hunting they are practically essential.

The force considered essential consists of one destroyer leader and five destroyers, and four twin-screw minesweepers or "sloops".

It must be remembered that in peace time, at any rate, we have to divide our forces on our two coasts, and it might well be that some considerable time might elapse before concentration on one coast could be effected, and also that it is rarely that a flotilla is able to operate as a whole, some proportion being absent in port for rest, refuelling, or refitting.

In arriving at the force necessary due consideration has been given to the valuable, or rather the essential, co-operation of the Air Force in patrol work.

The estimated cost of maintenance of such a force is between 4½ and 5 million dollars.

## INDIRECT DANGERS

*(1) Neutrality*

The main direct danger which calls for the provision of Naval forces in Canada, is that of being drawn into a state of belligerency which we wish to avoid, due to our inability to undertake the obligations of neutrality through having insufficient force at hand to prevent the perpetration of un-neutral acts by belligerents in our territorial waters.

Canada has a very extended coast-line; in many parts little inhabited, very indented, and, in the absence of an effective patrol, offering the greatest temptation to a belligerent to make use of.

It would not be difficult to imagine the indignant attitude of our neighbours to the South if they discovered that any Power with whom she was engaged in hostilities was making use of Canadian harbours to replenish the submarines which were operating against shipping off her ports.

The United States could hardly be expected to tolerate such a menace at her front door.

The forces necessary to effectively carry out our obligations as a neutral in the event of the United States being involved in a maritime war, are considered to be similar to those required to be maintained in peace time to meet the possible contingency of war, since the area to be covered is very extended and the risk involved is that of being drawn into war instead of being able to remain at peace.

*(2) Defence of Trade Routes*

Attack on Canadian trade on distant trade routes is placed under the heading of indirect dangers because while real, it is not so sweeping, so vital, or so immediate in its effects, as is the attack on our trade at the focal points off our ports.

Its defence involves entirely different considerations, amongst others being the fact that for a given appropriation a much smaller proportion of Canadian trade can be defended since one cruiser can only cover a certain portion of one trade route and our trade extends over the globe.

As before stated, at the home focal point all trade routes are covered.

It is not recommended that any measures should be taken to expand our Naval defence forces to cover the protection of distant trade routes until the essentially national responsibility of local defence is adequately covered.

Defence of the distant trade routes—if we are considering belligerent action taken in concert with the rest of the British Commonwealth of nations—entails embarkation upon a totally different phase of Naval defence to that involved in local defence, viz., a share in what is known as "Empire Defence", since what we export or import is also of value to the country to which we export or from which we import.

I would submit that the extent to which we subscribe, by increased Dominion Naval forces, towards Empire Defence is more a matter for the Cabinet than for the Naval Staff to express any authoritative opinion upon at the present time, since "*Empire Strength*" is as much a matter of individual Dominion development in agriculture, railways, immigration, as it is in Naval defence, and consequently the only opinion I would submit on this point is, as above stated, that no expansion should take place in the matter of obtaining cruisers for this purpose until the necessary local defence measures have been completed.

#### CONCLUDING REMARKS

(1) The essential size of the Canadian Navy to be maintained in peace time as a defensive measure is governed by three factors:

(a) The requirements necessary to protect the vital and most vulnerable point of our national existence at the focal points of our overseas trade in the vicinity of our home ports.

(b) The requirements necessary to carry out our obligations as a neutral in the event of the United States being engaged in a maritime war and so take the precautionary measures without which it would be practically certain we should be drawn into a war we would wish to avoid, or suffer indignities to our sovereignty over certain areas of coastal territory at the hands of an indignant United States.

(c) Armies and Navies are no different to industrial concerns in this respect—that below a certain minimum size it is unprofitable, it is wasteful expenditure, to attempt to operate them.

If the overhead is out of proportion to the output of effective defence, it is better to do without it.

If the Navy is too cramped for ships and men to carry out the exercises necessary to ensure interest and efficiency, or for young men to come in at the bottom of the ladder with reasonable opportunities of advancement before retiring time, then stagnation and inefficiency will render the force both unfit for the purpose required and an uneconomical, unprofitable national expenditure.

(2) The Naval force considered essential to comply with each and all of the above three factors should consist eventually—and with systematic development which would ensure its being truly Canadian in personnel—of one Destroyer Leader, 5 Destroyers, and 4 Twin-Screw Minesweepers.

(3) The final maintenance cost to such a force would be between 4½ and 5 million dollars annually.

(4) Our national overseas trade entering and leaving Canadian ports and on the high seas, on which the economic and industrial life of our people so largely and so increasingly depends, amounts, at the present time, to over one billion dollars annually.

WALTER HOSE

240.

*Mémorandum du Directeur du Service naval*  
*Memorandum by Director of Naval Service*

Ottawa, August 26, 1930

IMPERIAL CONFERENCE PROPOSALS

There has been received by this Department, from the Department of External Affairs, Secret Paper E.(30).5.

This memorandum has been prepared by the Admiralty for the Imperial Conference 1930 and deals with a Naval Policy for the British Commonwealth of Nations, Copy No. 3 of this memorandum is attached.<sup>1</sup>

In general it points out that as a result of the London Naval Conference, cruisers, destroyers and submarines have now come under strict limitation and that since the total tonnage limitation in each category embodies the Naval forces of the United Kingdom, the Dominions and India combined, it is desirable for the respective Governments of the British Commonwealth to come to an understanding regarding Naval programmes covering the period up till 1936.

A systematized programme of replacement of vessels is essential in order to attain the defensive strength visualized by the Treaty in a manner best conducive to efficiency and economy.

The memorandum makes certain suggestions regarding Naval programmes for the Dominions and India, those which particularly affect Canada being Article VI, paragraphs 21 and 22; Article IX, paragraphs 29 and 30; Appendix No. I, paragraph 7; Appendix No. II, paragraph 6; Appendix No. III; Appendix No. IV, paragraph 5.

I beg to submit herewith recommendations on the technical questions raised in the suggestions of Their Lordships regarding the Canadian Naval programme.

The C.I.D. suggestions regarding Canadian Naval development may be summarized as follows:

In the event of H.M. Government in Canada finding it possible, before long, to take a further share in the task of Naval Defence, it is suggested that this might most advantageously take the form of maintaining one or more cruisers (either new cruisers built to the order of the Canadian Government or cruisers on loan from the Navy of the United Kingdom). Any such cruisers would of course be included in the total tonnage allowed for the British Commonwealth of Nations.

Failing the provision of cruisers, it is suggested that the construction of Sloops might be proceeded with.

The two Canadian destroyers *Saguenay* and *Skeena* now building will form part of the total tonnage allowed. (For the British Commonwealth in the destroyer class).

<sup>1</sup> Non reproduit.

<sup>2</sup> Not printed.

The *Champlain* and *Vancouver*, if retained on the completion of the new vessels and after the 31st December, 1936, would also come out of the total tonnage allowed to the British Commonwealth and necessitate the scrapping of larger destroyers by the Navy of the United Kingdom.

It is consequently suggested that these two vessels, if not scrapped earlier, should be scrapped by the 31st December, 1936.

It is suggested that if the Dominion Government does not feel able to provide and maintain one or more cruisers in the near future, the construction of Sloops should be considered.

With respect to the provision of cruisers, as indicated in my memorandum on Naval Policy, I would not recommend embarking upon such a measure of development until the requisite force for the defence of focal points of trade in the vicinity of Canadian ports is properly and efficiently cared for.

With regard to the destroyers, I concur in the C.I.D. suggestions. I would, however, strongly urge that when *Champlain* and *Vancouver* are scrapped that they should be replaced by one Destroyer Leader and one new destroyer.

As to the sloops, the commencement of construction of four of this class of vessels to replace our four ineffective trawler minesweepers has been recommended by me in my memoranda on Naval Policy and on Immediate Naval requirements.

With regard to sloops I would point out that at all the later Naval Limitation Conferences it has been recognized that all Naval Powers require vessels of this type for purely local defence purposes in war and for police patrolling work in peace, besides other maritime duties usually performed by Naval vessels.

The class required are of such small *offensive* power that it has been recognized that there need be no limitation in the numbers of these vessels maintained by any Power, consequently there need be no compunction from the point of view of setting back the objective of Naval Disarmament in rendering our requirements in these small patrol vessels effective.

WALTER HOSE

241.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

DESPATCH 531

Downing Street, September 18, 1930

SECRET

Sir,

With reference to your secret despatch of the 11th June, 1928, and connected correspondence, I have the honour to state, for the information of His Majesty's Government in Canada, that it is understood by the Lords



Commissioners of the Admiralty that the two "B" class Destroyers *Saguenay* and *Skeena* now under construction by Messrs. Thornycroft for the Canadian Government are expected to be complete in March and April, 1931, respectively.

2. Their Lordships are anxious to learn whether His Majesty's Government in Canada propose that the vessels should commission and complete with Naval Stores at the Contractors' Yard at Woolston, or proceed to Portsmouth to embark stores and ammunition after the satisfactory completion of trials, which they consider may be found to be the most economical and convenient arrangement. In considering the question His Majesty's Government in Canada will no doubt take into account the cost of transport from Portsmouth to Woolston and of Stowage on board by Contractors' labour in which they would be involved by the adoption of the former alternative.

3. Arrangements can be made for the supply on repayment of Victualling Stores from the Royal Clarence Yard, Gosport, on receipt of the necessary particulars.

4. Their Lordships state that the guns, including depth charge throwers and gun stores, will be put on board as required by the Shipbuilders. The small arms, etc. will be supplied on the ships' commissioning. The outfits of ammunition for these two vessels are at Priddy's Hard, Portsmouth, and arrangements for supply can be made as required from that Depot. It would be preferable for torpedoes to be put on board at Portsmouth, but they can be sent to Woolston if necessary. The cost of conveying any naval armament stores to Woolston would, however, have to be met if that course were decided upon by His Majesty's Government in Canada.

5. I should be grateful for as early information as possible of the arrangements proposed by His Majesty's Government in Canada for the return of the *Vancouver* and *Champlain* and for the Commissioning and voyage to Canada of the *Saguenay* and *Skeena*.

I have etc.

J. H. THOMAS

242.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

DESPATCH 354

Ottawa, October 10, 1930

SECRET

Sir,

With reference to your secret despatch No. 315 of the 18th September on the subject of the storing of the Canadian destroyers *Saguenay* and *Skeena*, I

have the honour to state that it is proposed by the Department of National Defence to follow Admiralty suggestions with regard to the storing of the *Saguenay* and *Skeena* at Portsmouth, as contained in paragraphs 2, 3 and 4 of your despatch.

With regard to the return of the *Vancouver* and *Champlain* the Department is not prepared to fix a date for the return of these ships, but the matter will be considered after the results of the Imperial Conference are known.

I have etc.

W. H. WALKER

for the Secretary of State  
for External Affairs

243.

*Extrait du procès-verbal du comité de la Défense impériale*  
*Extract from Minutes of Committee of Imperial Defence*

251st meeting

London, November 28, 1930

SECRET

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MR. BENNETT, referring to a suggestion by Sir George Milne that the Dominions should consider the question of making themselves responsible for the immediate reinforcement on the outbreak of war of particular areas outside their own territory in which they had special interest, said that this raised the question of political control of such areas, which would obviously require very careful consideration. For example, no Prime Minister in Canada could ask for expenditure on the defence of the West Indies without political control. He thought that in any case the Chief of the General Staff in Canada should see the statement made by Sir George Milne, and he suggested that he might be given a copy to show General McNaughton, who would return the paper without reproducing it. It was idle, however, to disguise the fact that in Canada people had heard so much of the Kellogg Pact, of the League of Nations and of various recent Treaties, that they scrutinised all defence expenditure with the utmost care. On the other hand, during the last three days he had been in France and Belgium visiting the War graves of the Canadian Expeditionary Force, and he had been particularly struck by the way that people in France talked of war. He referred also to General Ludendorff's new book giving details of operations in the next war. It appeared to him that Statesmen should decide which of the two pictures was correct. If there was a possibility of war it seemed that we should unquestionably prepare to defend what God has given us. If, on the other hand, war was really unlikely, we should face the situation boldly and make our defensive arrangements on the basis of peace. In a question like this no half-way measures were possible.

THE CHAIRMAN [J. Ramsay MacDonald] said that one of the chief difficulties of the present situation was that a great many people in these islands, who had, during the war, declared that it was a war to end all wars, were now moving in an exaggerated atmosphere of peace prophecy. Others, on the other hand, said quite candidly that the British Commonwealth of Nations could lead the movement towards world peace, but in actual disarmament could not go beyond what could be obtained by firm international agreement. Therefore, we should put forward proposals for disarmament, but not give them effect unless other nations agreed to do likewise. That was, broadly, the position of the present Government. What Mr. Bennett had just said with regard to feeling in France was unhappily borne out by what he himself had heard, and it seemed clear that very soon we should have to decide on the sincerity of some present-day movements. The Chairman then referred to the present assumption underlying defence preparations that there would be no war for ten years, and that this ten-year period moved forward from day to day. Obviously, this was a very convenient basis on which to conduct defence preparations. As things stood, it could be assumed that we should have ten years to recover our position. Supposing, however, something happened next year which made it appear the ten-year period was too long, we could reduce the time to a shorter number of years. The situation was that no Government could adopt a policy of peace coupled with disarmament on absolutely hard and fast lines. Every morning it was necessary to look round and see what changes had occurred during the night, and he felt bound to say, as one who saw all telegrams that came to his Government from foreign parts, that he sometimes felt rather anxious, although his disquietude was not yet such as to make him consider that present assumptions regarding defence should be changed. Nevertheless, he would not like to say that his views would be the same six months hence. In short, what was wanted in considering defence was flexibility and not dogmas.

MR. BENNETT asked whether flexibility might not result in our being too late. There appeared to be so many factors with regard to which our information was incomplete. The possibility of a conflict between Poland and Russia, for example, seemed a matter which required serious consideration. If Russia attacked Poland and France went to the latter's assistance, how should we stand, and what would the rest of the world do? He confessed to ignorance on military questions, and it would be presumptuous on his part to express any opinion, but he had to confess that he was disturbed by what he had seen during his recent three days' visit to France. Incidentally, he mentioned that one of the Ministers in France, when looking at a long list of men killed during the war, had said he wondered whether the great sacrifice had been made in vain. It seemed to him that the real problem was what steps could be taken to meet any situation that might arise even in six months time. One thing seemed clear, and that was that you could not have in the same nation disarmament coupled with increased expenditure on armaments. Canada was, of course, in rather a special position as regards naval defence. But the British Commonwealth of Nations, he pointed out, now had only 50 cruisers,

though naval experts had said that the minimum was 70. Meanwhile, other Governments were spending money for purposes which it was difficult to understand. Taking all these matters into account, he confessed to some pessimism in regard to the present international situation.

THE CHAIRMAN pointed out, in regard to the naval situation, that if no agreement had been reached at the London Naval Conference, the United States would certainly have laid down more keels. As regards naval construction on the continent, it had been made perfectly clear that our agreement was subject to the situation on the continent being satisfactory. At the present moment France and Italy were negotiating, so far not altogether successfully, but a new phase had been entered upon and we had been brought in. There was a British representative, who, though not a full member of the Conference, was in close touch with other negotiators and was in a position to discuss any proposals put forward by France and Italy. The latest report he had seen that morning was a little more hopeful, though not quite so much so as reports two days ago. At the present moment France and Italy were coming to loggerheads on the question of 8-inch cruisers. This was the sort of thing that went on. The point was that if we found that owing to the actual laying down of keels, the Three-Power Agreement reached at the London Naval Conference could not be safely carried out so far as we were concerned, we should have to go to the other Powers and ask for an expansion of our forces. If the Three-Power Agreement were not in existence, Italy and France would be preparing to build on a scale that they were not at present contemplating . . . .

## PARTIE 6 / PART 6

### COMMUNICATIONS IMPÉRIALES

#### IMPERIAL COMMUNICATIONS

244.

*Le secrétaire aux Dominions au Gouverneur général*

*Dominions Secretary to Governor General*

TELEGRAM

London, February 22, 1926

At the instance of the Pacific Cable Board, Bill has been drafted to amend Section 1 of the Pacific Cable Act of 1911 so as to provide that any sums which, after the commencement of the Bill, are applied by the Board under Section 1 of the 1911 Act out of their reserve fund shall be repaid to the fund by means of equal annual payment of such an amount as will, with accumulation by way of compound interest at rate of 3 and one half per cent, be sufficient to effect repayment within a period of 35 years from the date on which the sums were withdrawn from the fund. Purpose of the Bill is, while



providing for the replacement of the reserve fund within reasonable period, to avoid necessity for considerable increase in the reserve fund which would result from compliance with the provisions of the 1911 Act, involving large annual payments which might in any year be sufficient to create deficit on the annual budget of the Board and calls on partner Governments. Terms of Draft Bill have received approval of the Board, who represent that it is necessary to introduce and pass the Bill in present Session. Similar telegram sent to other Dominions concerned.

245.

*Le Gouverneur général au secrétaire aux Dominions*  
*Governor General to Dominions Secretary*

TELEGRAM

Ottawa, March 1, 1926

Your telegram February 22nd. Proposed amendments to the Pacific Cable Act of 1911. My Ministers state that it is considered that the Bill as at present drafted entirely fails to meet the requirements of the situation from the Canadian standpoint. It departs from the original purpose of the Pacific Cable Act of 1901 in the same way as the Act of 1911 did. Instead of repayment of sums borrowed under the Act of 1901 having first call on receipts in excess of annual expenses and remaining surplus being distributed to partner Governments, the Act of 1911 and present draft amendment both give payments into reserve fund first call inasmuch as they are classed as annual expenses.

In view of the failure of the Pacific Cable Board to carry out Section 4 of the Pacific Cable Act 1901 and having regard to its action in awarding contracts involving expenditure of over eleven million dollars without Canada's consent and in spite of its emphatic disapproval of the commitment, it is considered that what is required is that at least the Act of 1911 should be so amended as to provide for return to original purpose of the act of 1901, such amendments including the following:

- (1) That paragraph two of Section one Subsection one of Pacific Cable Act 1911 be repealed and replaced by the following:

Provided that the sums standing to the credit of that reserve fund are not at any time thereby reduced below the sum of one hundred thousand pounds and that the Pacific Cable Board shall pay out of such reserve fund as at present existing as well as out of surplus receipts in connection with Pacific Cable any sum outstanding on account of money borrowed under the Pacific Cable Act 1901, and if there is no such sum outstanding thirteen-eightieths of the surplus shall be paid to the contributing Dominion Governments.

- (2) That Section one Subsection 2 be amended by striking out all the words after the word "Act" in the third line of the said Subsection 2.

The foregoing suggestions relate only to the subject mentioned in your telegram of 22nd February and are not to be regarded in whole or in part as the legislation indicated in the High Commissioner for Canada's cablegram to



the Postmaster General of May 9th, 1925, and the reply of the Postmaster General of May 20th, copies of which may be secured from the Secretary of the High Commissioner's Office who is a representative of Canada on the Pacific Cable Board.

246.

*Le secrétaire aux Dominions au Gouverneur général*  
*Dominions Secretary to Governor General*

TELEGRAM

London, March 16, 1926

CONFIDENTIAL. Please give the following message from me to your Prime Minister. Begins. Private and Personal. I am considerably concerned at the present position in connection with the Pacific Cable Board and I am sure you are as anxious as I am to reach a satisfactory settlement. It seems hardly necessary for the moment to go into detailed history of the differences of opinion which have arisen over the Board's policy with regard to the duplication of the Pacific Cable. I need only say here that the Board have always maintained their policy was fully capable of justification, both on the technical points raised and also on the question of the legality of their action under the terms of the Act of 1911. But whatever may be the view ultimately taken on these points, the Board, as the matter now stands, are definitely committed to the completion and payment for the work of duplication. This being so, two questions of immediate practical importance arise, which I would like to get settled at once without prejudice to further discussion on the main issues.

Firstly, in connection with our proposed new Bill. This, as explained in my official telegram of today, is solely designed to relieve the Board of the major part of an obligation imposed on it under the existing legislation. It is not in any way intended to prejudice any of the outstanding issues; indeed the obligations expressed in the Governor General's telegram of March 1st seem only to be that it does not go far enough; this being so, I very much hope the objections may be withdrawn.

Secondly, I am informed that the grant of a Landing License in Canada to the Board for the new duplicate cable is being deferred. As the cable in question is now being actually made under the contract, I trust you may be able to arrange for the necessary license to be issued. Amery. Ends.

247.

*Le Gouverneur général au secrétaire aux Dominions*  
*Governor General to Dominions Secretary*

TELEGRAM

Ottawa, March 25, 1926

Your telegram March 16th, Pacific Cable Bill. My Ministers state that it is considered essential that the proposed legislation should clear up all matters

outstanding between Canada and the Pacific Cable Board. It is apparently recognized by the Board that the Act of 1911 does not cover the deviation which has taken place from the provisions of the Act of 1901, and that there is therefore necessity for amendment. The right of Canada to be consulted and her right to share in the profits have been questioned for the first time, and these are the really vital points at issue. It is considered that if the Board had continued the original plan of placing in a reserve fund a sum of thirty thousand pounds per annum, there would now be available over one million seven hundred thousand pounds of accumulated profits which in accordance with the provisions of the 1901 Act could be utilized to pay off the balance of the original loan, leaving about three hundred thousand pounds for distribution to contributing governments. The Canadian High Commissioner's telegram of May 9th last quotes the Chairman of the Board as pointing out the necessity of passing another Imperial Act to authorize distribution of profits, and the Postmaster General's reply of May 20th acquiesced in this. As all parties concerned are apparently seized of the necessity for legislation and are aware that it must be passed by the British Parliament, it would appear that the present occasion should be utilized to settle all matters outstanding.

The Canadian Auditor General has called attention to the regularly occurring profits earned by the Pacific Cable Board, and has demanded for the information of Parliament a report as to what action has been taken on the part of the Canadian Government in regard to the division of profits as provided for in the Pacific Cable Act of 1901. As this request is embodied in a report now before Parliament and as it has not been possible to point to any reason why Canada should not receive her share of profits, it becomes necessary to seek a satisfactory settlement of these outstanding questions. Canadian Government considers they have no option but to request that legislation might be enacted upon the lines laid down in my telegram of March 1st.

248.

*Le secrétaire aux Dominions au Premier ministre*

*Dominions Secretary to Prime Minister*

PERSONAL

Downing Street, May 10, 1926

My dear Mackenzie King,

I should like to amplify the message which I sent you by telegram on the 16th March regarding the Pacific Cable Board.

I feel sure that the differences of opinion which have arisen are on the one hand by no means incapable of satisfactory settlement and on the other hand are certainly not such as should be allowed to become a cause of friction between the partner Governments represented on the Board. The official correspondence which has passed between the Governments does not make entirely clear the points of difficulty, but I do not think it is necessary for me

to enter into a detailed discussion upon the various questions which have been raised. Whatever may be the merits of the controversy it seems to me that it is necessary for us now to consider what is best to be done in the state of affairs as they stand. It would not be practicable (even if it were desirable) to reverse the policy of duplication: any delay in completing the duplicated cable and bringing it into operation would only result in loss to the Board and the partner Governments without bringing any benefit to any party interested. I ought perhaps to explain the position with regard to the accumulated reserve fund of the Board, since I gather from the Governor General's official telegram of the 25th March that the use of the reserve fund for the purpose of the duplicated cable is now being questioned. I understand that from the beginning the Board regarded it as necessary to have some fund which would be called upon in emergencies for renewals or replacements, and accordingly they decided to set aside each year to reserve, as expenses properly incurred in working or maintaining the cable under section 3(2) of the Pacific Cable Act 1901, a sum varying from £35,000 in 1903/4 to £30,000 in 1909/10, at which sum it remained fixed; this procedure was not disapproved by any of the partner Governments although the building up of a reserve in this manner increased the deficit falling to be met by them each year. By 1911 owing to the fortunate freedom of the cable from serious and expensive breakdown a considerable fund had been accumulated. A proposal was then put forward and urged upon the British Government by the representatives of other Governments concerned at the Imperial Conference of 1911 that this fund should be utilized for the purpose of laying new cables, and accordingly the British Government agreed and secured the necessary powers for the Board by the passage of the Pacific Cable Act 1911. The Act provided (i) that the accumulated reserve might be utilized for the construction of a cable between Australia and New Zealand and for any other extensions etc., which in the opinion of all the contributing Governments are necessary or expedient for the undertaking (ii) that sums so withdrawn should be replaced with interest by means of annuities spread over 35 years. In the year 1915/16 the annual receipts showed for the first time a considerable excess over actual outgoings and the Board decided to make a special transfer to reserve in addition to the normal provision of £30,000. In the following years up to 1919/20 a similar surplus of receipts was obtained and in each year a similar additional transfer to reserve fund was made to provide against possible future contingencies. The Board called attention to these transfers in their annual reports and with the approval of their Auditor included them in their accounts under annual expenditure; the surpluses remaining as profits were devoted to the repayment of capital.

From 1920/21 to 1924/25 a similar procedure was adopted (except that in the last three years there was no remaining surplus left to be utilized as repayment of outstanding capital); in these five years the transfers to reserve were expressed to be for the purposes of duplication, the approval in principle of the contributing Governments having as the Board thought, been sought and obtained to the duplication of the cables. It is the practice to

communicate each year formally by official despatches from the Secretary of State to the Dominions concerned copies of the annual accounts and of the Auditor's reports, and no exception has been taken by any Dominion Government to the financial procedure adopted by the Board.

This therefore would appear to supply the answer to the point raised at the end of the Governor General's telegram of the 25th March namely in the years 1915/16 to 1921/22 the "profits" of the undertaking, totalling some £21,000, were applied in accordance with the provisions of the Act of 1901 towards the repayment of the outstanding capital, while in the years since 1921/2 there were no "profits" of the undertaking within the meaning of the Act of 1901.

With regard to the new Bill which formed the subject of my official telegram of the 22nd February and subsequent telegrams I am afraid some confusion has arisen over its object. The Governor General's telegram of 25th March says "It is apparently recognised by the Board that the Act of 1911 does not cover deviation which has taken place from the provisions of the Act of 1901 and that there is therefore necessity for amendment." This appears to be a misunderstanding of the position. It is because the Board recognise that the duplication of the cables does come within the provisions of the 1911 Act that they seek to get this Act amended. Unless the 1911 Act is amended the Board would be obliged to replace in the Reserve Fund the whole of the money expended and to be expended (totalling approximately £2,750,000) on duplication, together with interest at  $3\frac{1}{2}\%$ , in 35 years. This would result in the building up of a very large fund for which, as soon as the duplication of the whole Pacific cable system is complete, there is no adequate reason, and the large contribution which would have to be made annually from revenue to replace the sum with interest would seriously prejudice any prospect of the Board's being able to meet the views of the Canadian Government by the distribution of profits.

Some misunderstanding also seems to have occurred over the reference in the High Commissioner's telegram of 9th May 1925 (quoted in the Governor General's telegram of 25th March) to the necessity of passing an Act to authorize the distribution of profits. The distribution of profits (after repayment of outstanding capital) is provided for by the Act of 1901, and as already explained up to the present time some £91,000 has actually been applied to the repayment of capital in addition to the amortisation payments provided for in Section 2(2) of the Act of 1901. I gather that the Board in the statement quoted in the High Commissioner's telegram of 9th May were intending only to refer to the suggestion of a lump sum payment to Canada alone, which would of course require special legislation.

I may add that the reduction of the ordinary rate to Australia from 4/- to 2/4 a word which was effected by the cable was of substantial benefit to Canada, while the Board at the present time spend about £85,000 a year in Canada, and will spend more when duplication is effected.

If there is any further information I can give, I shall be happy to do so.



In the meantime, however, as I indicated at the beginning of this letter, the question immediately arising is—what is it best to do now? Our view here is that the two urgent matters are those referred to in my message of the 16th March. I hope very much that you may be able to meet us with regard to both these matters—viz. the enactment of the Bill to relieve the Pacific Cable Board of the necessity for building up again so large a reserve fund within so comparatively short a time, and the grant of a landing license in Canada for the new duplicate cable. Other matters can no doubt stand over till you can discuss them with us and with Dominion colleagues who are directly affected when you are over for the Imperial Conference.

L.S. AMERY

P.S. I hope that this letter may help to clear up the difficulties about the Board referred to in your letter to the Prime Minister of 20th April which he has just shown me.

249.

*Le Premier ministre au secrétaire aux Dominions*

*Prime Minister to Dominions Secretary*

Ottawa, June 21, 1926

My dear Amery,

I appreciate very much your taking the time to send me the comments on the Pacific Cable Board situation contained in your letter of May 10. We are wholly at one in the view that any difficulties which have arisen can be settled and must be settled, and that it is undesirable from every point of view that the situation should be allowed to drift with the possibility of further friction developing. As you say, whatever the merits of the controversy, it is now necessary to consider what is best to be done in the state of affairs as they stand. In reaching such a solution, however, we cannot ignore the merits of the case. It would seem most desirable that any action taken should not merely relieve the Pacific Cable Board from the difficulties into which it has fallen, but should clear up the whole situation and lay down a workable policy for the future. Piecemeal action would not meet the end we have in view, the removing of all the sources of friction and starting out with a clear slate.

While your letter makes clear one or two important points, it does not deal with the main issues, as we see them.

I shall not endeavour to go into details; the facts have been set out fully in the pamphlet "Canada and the Pacific Cable," issued by the Postmaster-General, who is by Order-in-Council given charge of Canada's interest in the Cable; but I may try to explain the broad lines of the position taken by the government, and, to judge from unusually unanimous press opinion, by the people of Canada as well.



The chief issues involved appear to be the rights of the partners in the enterprise to assets and profits, the legality and expediency of the present policy as to reserve fund, and the legality and expediency of the decision to award a contract for the duplicate cable from Fiji to Canada; there are also some minor questions of administration and of legislative procedure.

First, Canada considers that as a partner in the enterprise she is entitled to her proportionate share of assets and of profits. It would hardly seem this could be questioned, but apparently the Chairman of the Board has questioned it, stating there is "no provision for any payments to Canada, who paid no part of the original capital, the whole being advanced by the National Debt Commissioners". (Pamphlet, page 24). The Chairman is evidently confusing capital with assets and lenders with partners. It is true that the £2,000,000 required to build the original cable was borrowed from the Debt Commissioners, but that does not make them owners of the enterprise; the partners in the Cable, Great Britain, Canada, Australia and New Zealand, who guaranteed five, five, six and two eightieths respectively of the capital sum and of any annual payments necessary to make up losses, assumed all risks and as partners are surely entitled to proportionate shares of annual profits, as well as of net assets in case of dissolution of partnership. The Act of 1901 provides explicitly that profits are to be shared in the above proportions, and if I remember rightly, sharing of profits has always been held by the courts to [be] the distinctive proof of the existence of partnership. Incidentally, we shared losses from 1901 to 1915, Canada's share totalling \$1,000,000.

Second, as to the reserve policy. Under present conditions, though receipts greatly exceed expenditure, no profits have been distributed to any partner. Since 1915 over \$11,000,000 has accrued over working expenses and the charges for interest and sinking fund on the original loan. Apparently the great bulk of this sum has gone into a reserve fund: only some £91,000 has been applied to the further reduction of debt, in accordance with the provision of the 1901 Act that any surplus shall be so appropriated, and nothing has been divided in profits. Had the policy of setting aside £30,000 a year for reserve been followed from 1915 to 1925, there would have remained some £1,738,000, which would have sufficed to pay off the whole of the debt and to leave £300,000 for division among the partners as profits.

The British Act of 1901 makes no provision for a reserve fund. No objection could be taken to the policy adopted in the initial years a setting aside some £30,000 or so a year for repairs, renewals, and contingencies: that is ordinary business precaution. But it does seem anomalous that a huge reserve fund of £2,000,000 should be built up, and evidently the British Auditor, in his report of 1924, felt that the policy was contrary to recognized practice. I am aware that the Act of 1911, though it does not directly authorize placing such sums in Reserve, might possibly be taken to imply this by authorizing payments for construction works out of Reserve, though under certain specified conditions. I note your statement that this course was adopted as the result of representations made by some of the governments at the

Imperial Conference of 1911: I have seen no record of such action on Canada's part, but apparently we acquiesced. It is true also, as you point out, that no exception was taken to this procedure by any Dominion government previous to 1924. Now, however, that the Reserve has attained such large dimensions and that events have shown the danger of unbusinesslike disposition of this fund, it has become necessary to ask that the policy be changed. What we have asked, is, in brief, that the present surplus and future surpluses, after provision is made for a reserve of £100,000, should be applied to repayment of loans and to distribution of profits, in accordance with the original understanding.

The Act of 1911 provided that any sums taken out of Reserve for new construction should be paid back to the Reserve Fund in 35 instalments, with interest. Apparently the Board neglected to do so, as their Auditor pointed out in 1925. Now a bill is brought forward at the suggestion of the Board, providing in amendment for repayment of these advances, *without* interest. As you indicate, the bill aims to reduce the amount going into Reserve, and so far agrees with our proposal, but it does not go to the root of the matter. It would still pile up a huge reserve and still involve us in danger of extravagance and of friction.

Not only have no profits been distributed offsetting the previous payments to meet losses, but it can hardly be said that Canada at least has received adequate financial compensation in other ways. It is true we have benefited by the reduction of tolls, but as Canadians use the cable only one-eleventh as much as our friends across the sea, and less even than the United States, that does not bulk very large. I note that the Board states that at the present time about £85,000 a year is spent in Canada. This sum must be made up largely of salaries paid employees, very few of whom are Canadians, as well as rental of the Canadian Pacific Railway Company land line. I have been informed that the Board purchases practically no supplies in Canada. There are, of course, advantages other than financial to take into account. We believe that the Cable has done a good deal to increase inter-imperial intercourse as we hoped it would, and we trust it will do so more in the future. But as our Postmasters-General, Sir William Mulock and Mr. Murphy, have pointed out, in order to advance imperial aims it is not necessary to neglect ordinary business principles.

Third, the action of the Board in determining, against Canada's protest, to spend over \$11,000,000 on a duplicate cable. I do not think any one can read the exchange of telegrams in the Postmaster-General's pamphlet without concluding that the Board's action was and is clearly illegal, since the consent of all the partner governments, which is absolutely essential under the Act of 1911, and was sought and obtained on previous occasions, was not and has not yet been given to this duplication. It is equally clear from the discussion as to the amount of the tender, the use of Mumetal for loading and the arrangements for paying half a million to the holders of the Permalloy patents, that the Board's action was not sound business. I need not emphasize these essential points, as I note you do not express any dissent.

There are also to be considered some questions of administration, as to representation on the Board, payment of members, procedure in appointments and purchases etc., and the question whether any agreements to revise the present legislative basis should not be effected by concurrent legislation in all the partner countries.

As you say, however, the question remains, what is now to be done. Clearly, to straighten out the whole situation. You make three suggestions for present action: that we should tacitly or otherwise acquiesce in an undertaking which we consider illegal and unbusinesslike, that we should grant a landing license for the cable, and that we should approve the Board's proposed bill as to Reserves. I am afraid Canadians would consider this solution inadequate and one-sided. But I should be reluctant to have Canada withdraw from the Board, and so would the Postmaster-General and my other colleagues, if it can possibly be avoided. We are prepared also to do what can be done to extricate the majority of the Board from the position in which they have placed themselves. If, then, application is made by the Board in the usual way for consent to the present duplication, and if concurrently definite agreement is reached as to revision of the Reserve policy upon the lines we have previously indicated, to be carried out by legislation in the British parliament with such concurrent legislation as is found necessary, and some minor adjustments are agreed upon as to appointments and purchase of supplies, I think we should consider ratifying the duplication and issuing the landing permit, and thus clear the whole ground.

I hope very much that we will be able to reach a speedy and complete solution.

Yours sincerely,

W. L. MACKENZIE KING

250.

*Le secrétaire aux Dominions au Gouverneur général*

*Dominions Secretary to Governor General*

TELEGRAM

London, July 30, 1926

CONFIDENTIAL. As already stated, we should have greatly wished, if it had been possible, to obtain the consent of the Canadian Government to the passage of the Pacific Cable Bill but in view of the objections taken by Mr. Mackenzie King in his letter to me of June 21st, we thought it best to let the Bill stand over for inclusion in the general discussion of Pacific Cable affairs during the Imperial Conference. But while postponement, though inconvenient, is feasible as regards the Bill, question of permission to land new cable does not admit of such delay. Cable ship sails August and will, I understand, be ready to begin laying at Bamfield in October. Whatever settlement is reached on the general issue it can hardly involve the landing of the northern end of the cable elsewhere than in Canada, and we earnestly hope that your

Government will feel it can, especially in view of the postponement of the Bill, agree that the cable may be landed without prejudice to the forthcoming discussion. May I ask for very early answer as consequential arrangements have to be made well in advance of the actual landing of the cable.

251.

*Le Gouverneur général au secrétaire aux Dominions*  
*Governor General to Dominions Secretary*

TELEGRAM

Ottawa, August 21, 1926

CONFIDENTIAL. Your telegram 30th July respecting Mr. King's letter 21st June in regard to Pacific Cable received. Although the Pacific Cable Board did not ask or receive Canada's consent to the duplication of the Fannings-Bamfield section, it would seem that there is now no object in discussing this phase of the question further. My Government continues to feel that the Chairman of the Board took up a mistaken attitude in this regard. It is understood that he wishes to resign and my Government urges that a first class business man be appointed as his successor at the head of this large business enterprise. My Ministers adhere to the position set forth in previous correspondence regarding the ownership of the cable property and the proper policy as to reserves and profits. Chairman of Board was reported on May 9th last through Secretary, High Commissioner's Office as follows:

Chairman states that Board has no power to pay out any money to Canada as under Imperial Act their funds can be devoted only to laying and management of Cables. To comply with your wishes they would need passing of another Imperial Act. Chairman does not understand word equity. States no provision for any payments to Canada who paid no part of original capital whole being advanced by the National Debt Commission. Disclaims that we have one-third interest in sense that Canada no title to any part of Board's savings.

Although this view is so evidently incorrect and not worthy of serious consideration it is disquieting to have the head of the Board even make such a suggestion. My Ministers would appreciate your disavowal of the same and your assurance that their views will be met when the new concurrent legislation is being arranged.

252.

*Le secrétaire aux Dominions au Gouverneur général*  
*Dominions Secretary to Governor General*

TELEGRAM

London, August 26, 1926

CONFIDENTIAL. Your telegram of August 21st. Pacific Cable. Much regret difficulty should still be felt in connection with the statement of the Chairman



of the Board reported in High Commissioner's telegram of May 9th 1925 but it appears from the context that it was meant only as reply to the demand of Canada pending proposed withdrawal from partnership should receive payment of 5-18th of the accumulated resources. Such payment was, it is clear, not provided for by the legislation then existing and, as the Chairman stated, further legislation would be required before any lump sum payment of this character could be made to Canada alone. There was, however, not the slightest intention to question the undoubted right of Canada to her share of any sum available for distribution as profit to partner Governments.

We are most anxious that whole of the future policy and management of the Board should be comprehensively reviewed by partner Governments at the earliest opportunity with a view to removing all possibility of future friction, and placing the undertaking on a basis entirely satisfactory to all concerned. We trust this opportunity will occur at the time of the approaching Imperial Conference, and no effort on our part will be spared to bring about friendly settlement.

We notice that the question of landing licence for the landing of the northern end of the cable is not referred to in your telegram but matter is one of urgency as cable ship is due under present arrangements to arrive at Bamfield October 16th. We should not regard the issue of a licence as in any [way] affecting the position of Canada in regard either to past events or to future policy, and we earnestly trust that in the circumstances it may be understood that the required licence will be granted to the Board. I should be grateful to receive definite answer on this point as soon as possible.

253.

*Le Gouverneur général au secrétaire aux Dominions*  
*Governor General to Dominions Secretary*

TELEGRAM

Ottawa, October 9, 1926

CONFIDENTIAL. Your telegram August 26th. Confidential. Pacific Cable. Government of Canada is pleased to note that the British Government concurs in the view that the whole of the future policy and management of the Board should be comprehensively reviewed by the partner Governments at the earliest opportunity with the object of securing a friendly and comprehensive settlement. It is noted, however, that no indication has yet been given as to whether the British Government concurs in the views upon the revision of the reserve policy of the Board advanced by the Government of Canada in recent communications. A statement as to whether the British Government will support such a revision as is proposed would greatly facilitate consideration of other questions outstanding, such as the issue of a landing licence for the cable now being laid all of which questions the Canadian Government desires to see settled speedily and amicably. Canadian Government is still of opinion, however, as has repeatedly been indicated, that it is advisable that all the questions should receive simultaneously at least a tentative solution.



254.

*Le secrétaire aux Dominions au Gouverneur général*  
*Dominions Secretary to Governor General*

TELEGRAM

London, October 15, 1926

CONFIDENTIAL. Your telegram of October 9th regarding the Pacific Cable. We certainly contemplate that the future policy, as to reserve, should be included in the forthcoming discussion. We would, of course, welcome acceleration of the repayment of outstanding loans but we have had as yet no opportunity of consulting Australia and New Zealand on the subject. We would suggest that the exact amount at which the future maximum for the Reserve Fund should be fixed is matter on which the Board might be asked to advise from technical and business aspects. We have no desire that that maximum should exceed what is strictly necessary for this purpose and we are quite prepared to accept whatever figure may, as a result of further discussions in the light of the Board's advice, be found to be acceptable to other partner Governments. We hope it may be possible to initiate discussion immediately on the arrival in London of the Canadian representatives to the Imperial Conference. In the meantime, we earnestly trust that the Canadian Government will arrange for the immediate issue of landing licence for cable due Bamfield, October 19th. Landing of cable is essential both for the safety of the cable and for its proper testing, and any delay would entail heavy charges for demurrage of cable ship.

255.

*Le Premier ministre au secrétaire d'État*  
*aux Affaires extérieures par intérim*

*Prime Minister to Acting Secretary of State for External Affairs*

TELEGRAM

London, November 15, 1926

Advise Postmaster General it is expected make public statement details Pacific Cable settlement this week. Terms include, first, replacement of nineteen eleven provision regarding reserve fund by arrangement Board to place to reserve each year either ten per cent net profits or ten thousand pounds whichever sum greater or whole of such profits of not exceeding ten thousand pounds with understanding larger appropriations could be made by valuation consent partner governments; second, surplus after meeting expenses including reserve provision to be divided among partner governments next two years thereafter half surplus divisible among partner governments other half assigned repayment British Treasury loan until paid off when all surplus divisible as profits. We consider desirable grant full landing license as part of general settlement. Please issue full landing license for operating purposes but do not make public announcement until further advised.

MACKENZIE KING

256.

*Le Gouverneur général au secrétaire aux Dominions*  
*Governor General to Dominions Secretary*

TELEGRAM

Ottawa, March 26, 1927

CONFIDENTIAL. Your despatch 15th December, Confidential 2. Canadian Government would welcome establishment of a radio telephone service between Great Britain and Canada, but would much prefer that the service be established directly between a station in Great Britain and a station in Canada rather than through the medium of a station in the United States. It is understood that there is at the present time a contract between the Canadian Marconi Company and the Bell Telephone Company of Canada providing for communication to be put into operation as soon as facilities are available. The Canadian Government recognizes that the United States circuit is the only practical one in existence at the present time, and concurs in the suggestion that these facilities should be made available for Canadian traffic. It is suggested that the clause in the agreement between the Postmaster General and the American Telegraph and Telephone Company should provide that the Company would extend their trans-Atlantic service to Canadian points when requested so to do by the Postmaster General; that the rates of such service should not exceed those charged to corresponding points in the United States; and that nothing in the agreement either preclude the Dominion Government and the Postmaster General from establishing or sanctioning a direct telephone service between Canada and Great Britain at some future date.

257.

*Le premier ministre d'Australie au Premier ministre*  
*Australian Prime Minister to Prime Minister*

TELEGRAM

Melbourne, June 21, 1927

SECRET. Following is text cablegram sent on 11th June to Secretary of State for Dominion Affairs, relative to success Beam Wireless Service. Begins. Secret. Following from my Prime Minister. Begins. My Government has been giving serious consideration to position which has arisen owing to success Beam Service. Beam Wireless is now doing more than 60% total traffic between Australia and Europe and although reduced rates may have brought in a certain amount of new business its obvious tendency is to render cable service commercially unprofitable. Both managers Pacific Cable Board and Eastern Extension Telegraph Company have approached Government and informed it that as a result of competition Beam their returns have fallen to a point insufficient to meet their expenses. My Government is clearly of the opinion that no action would be warranted which would retard development

new and improved methods communication either in the interests of Cable Companies or for protection moneys provided by different Governments of Empire for Pacific Cable. Should success Beam be continued and its reliability proved during all seasons of the year it would appear inevitable that this system will render commercial conduct Cable Companies impossible. Apart from question of moral obligation, if any, that Government may be under toward Cable Companies and question financial adjustments in connection with Pacific Cable, the most serious question arises of the position with regard to defence and necessity of maintaining adequate cable service for use in time of war. My Government has called for and received from Defence Department a report on subject. The substance of the report is as follows: The Australian Overseas Submarine Cable System, operated by Pacific Cable Board and Eastern Telegraph Company are of great importance in defence communication. In time of war it will be necessary to divert a great deal of wireless traffic to submarine cable for the following reasons: (1) To reserve ether for strategic and tactical purposes; (2) Ensure greater secrecy communication; (3) Possibility jam and interference with Beam System in wartime; (4) The reliable twenty-four hours' service which cable provides as against shorter transmission period Beam. The Defence Department considers difficulty attending cutting of the submarine cable in wartime is too great to render that possibility a determining objection maintenance cable service and generally conclude cable system should be supported and maintained in time of peace, in order that they may be available in time of war for imperial communication and defence. In view of importance of this question from point of view of the Empire defence, my Government would [ ? ] it should immediately be referred Imperial Defence Committee for report. In the meantime my Government will be glad to receive your views on this question from its commercial aspect and also as to what you consider best course to pursue to approach a full and proper consideration of the matter raised therein. Ends. Have received reply that question raised will receive early attention.

BRUCE.

258.

*Le secrétaire aux Dominions au Gouverneur général*  
*Dominions Secretary to Governor General*

TELEGRAM

London, June 24, 1927

CONFIDENTIAL. My despatch May 27th. Proposed extension of Trans-Atlantic Telephone Service to Canada. If the three conditions mentioned in your letter of the 26th March are regarded as having been secured by relevant provisions of principals and supplemental agreement, Postmaster General suggests that Service might be opened provided that proposed rates are approved. Should be grateful if an early intimation of views of His Majesty's Government in Canada could be furnished.

259.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM

Ottawa, July 25, 1927

Your despatches to Governor General 27th May and 24th June, Trans-Atlantic Telephone Service. Proposed terms of draft agreement between Postmaster General and American Telephone and Telegraph Company in regard to radio-telephonic communication between Great Britain and Canada satisfactory with exception of proposed zones. Latter question under discussion between the commercial companies concerned. Draft of revised zones mutually agreed upon will be submitted for your consideration by American Telephone and Telegraph Company and to us by Bell Telephone Company of Canada in course of few days.

260.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM

London, July 26, 1927

SECRET. In reply to question raised by Commonwealth Government as to position which has arisen owing to success of beam service following telegram has been sent to Governor General Commonwealth of Australia. Begins. Secret. 26 July. As a preliminary to consideration by Committee of Imperial Defence of question raised in your telegram 11 June it has been examined by Imperial Communications Committee from both strategical and commercial aspects. With a view to more detailed examination of strategic aspect it has been decided to appoint Sub-Committee under chairmanship of Sir Samuel Wilson with following terms of reference.

In view of possibilities of cable working to Australia or elsewhere becoming uneconomical as a result of wireless competition (a) To examine any report on possibility of long or short wave service becoming partially or wholly useless in time of war due to jamming intentionally or otherwise. Trials to be carried out if necessary. (b) To examine into possibilities of interference with cables in time of war. (c) To consider whether retention of cables in time of war is an absolute necessity for certain classes of Government messages on account of alleged superior degree of secrecy over that of wireless.

Committee will include representatives appointed by (?) War Office, Air Ministry and Post Office and nomination of members of Commonwealth Government and other Dominion Governments if convenient to them, would

be welcomed. Committee will be asked to report by Christmas 1927. As regards commercial aspects question of experience so far shows beam service is less stable than cable service but cheaper to work. Where uniform rates are adopted as on Anglo-Canadian Service beam has secured only small proportion of total traffic and is being worked at a loss. Anglo-South African beam service was opened on 5 July and Anglo-Indian Service will be opened a few weeks hence both offering all-round reduction of one third of present cable rates. Eastern and Associated Companies have made no official representations to His Majesty's Government in Great Britain and are probably awaiting experience on South African and Indian routes before deciding on policy. Imperial Communications Committee reached conclusion that it was too early yet to form definite opinion as to effect on cable service of beam competition and that there was no immediate necessity to take definite steps to adjust this competition. Ends. Shall be glad to learn by telegram whether Dominion Government desire to nominate representative on Committee.

261.

*Le Premier ministre au premier ministre d'Australie*  
*Prime Minister to Australian Prime Minister*

TELEGRAM

Ottawa, July 30, 1927

SECRET. Yours twenty-first ultimo received respecting cable and wireless situation. As you are aware Canada protested emphatically against expenditure of about eleven million dollars on duplication of Pacific Cable and made strong representations urging that action be deferred until less expensive wireless beam system had been given trial. Representatives of other partner governments on Board, however, voted in favour of awarding contracts and work was proceeded with. Result appears now to be that partner governments have duplicate cable without sufficient business offering and that there is every possibility of their having again to face annual deficits with the original cable only partly paid. Canadian Government views this situation with much concern, but it is not prepared to consider assumption of large deficits on defence grounds until full commercial possibilities of retrieving situation examined. We would suggest an attempt should be made to divert more business to Pacific Cable. It appears to us further that if Australia will reduce her terminal charge to correspond with that of Great Britain and New Zealand extend this reduction to traffic to and from United States over Pacific Cable thereby allowing cable rates to be reduced to rates in effect for beam messages to and from Great Britain and Australia there is possibility sufficient business will be regained for Pacific Cable and new business created due to the low rates to make cable self-supporting. Would be pleased to receive Australia's views on this proposal. Similar messages being sent to Great Britain and New Zealand.

MACKENZIE KING



262.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM

Ottawa, August 16, 1927

CONFIDENTIAL. Your telegram July 26th Pacific Cable Board. Canadian Government not in position at present to nominate member to proposed Committee but assume Pacific Cable Board will be represented by some of its operating experts. As regards commercial aspects we consider it important to adopt uniform rates for cable and wireless services and do not consider that it is too early to form a definite opinion on effect of beam competition on cable service or to take definite steps to meet this competition. We are strongly of opinion that immediate action should be taken along lines of our cable of July 30th and that every field should be canvassed with view not only to reducing at earliest possible date operating expenses of cable but also to regaining business by diversion of messages to Pacific Cable, reduction of rates to public, reduction of terminal charges and such other means as may prove available.

263.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM

London, August 30, 1927

SECRET. Your telegram 16th August, question of Wireless and Cable Service. Intention is that Sub-Committee should examine only strategic aspects of question. They have, however, power to call in technical assistance as required, and it has been assumed that Pacific Cable Board experts will be available for any assistance Sub-Committee may require.

As regards commercial aspect of question, remarks at the end of my telegram 26th July were intended to refer only to possible action of Government. There was no intention of suggesting postponement of any action which Pacific Cable Board might see fit to take with a view to meeting by internal administrative measures position arising out of competition of Beam Service. Understand Board is taking immediate steps to reduce expenses in the matter of surplus staff, overtime charges, etc., but that larger questions of policy mentioned in your telegram, some of which require Government's action, are awaiting as a first step appointment of a new Chairman as to which I hope to be in a position to communicate again with you shortly.

264.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM

Ottawa, October 1, 1927

Following for your Prime Minister. Begins. Personal. Am greatly pleased to learn that you are to inaugurate opening of telephone service between Great Britain and Canada and shall be delighted to have privilege of first conversation with you. I shall be at my office at Ottawa at the time proposed, i.e. about three p.m. G.M.T., which will be ten a.m. Ottawa. I much appreciate kindness General Post Office undertaking to make necessary arrangements. Ends.

265.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM

London, November 4, 1927

SECRET. My telegram 26th July Competition between Beam Wireless and Cables. Sub-Committee appointed to consider strategic aspects has submitted interim report dealing with communications between Australia and New Zealand. Following is summary of conclusions and recommendations.

(i) Intention of interference with long wave wireless service is unlikely to be resorted to in time of war, but technical reasons in respect of speed of working long wave wireless service cannot entirely replace short wave wireless or cable service.

(ii) Jamming of existing beam stations is practicable. To make jamming more difficult, further research with a view to improving directional reception is required. A serious effort to jam would probably result under present conditions in beam service having to revert to all round working at much slower speed.

(iii) Jamming an all round short wave wireless station is practicable up to a certain point, though some intermittent working will always be possible.

(iv) Extent of interference with cables in time of war will depend on nature of war, relative position of belligerents and strategic situation. The power which has obtained command of sea should be able to secure comparative immunity for its cable service.

(v) Cable services have a marked superiority over wireless service in respect of secrecy.

(vi) For communication between United Kingdom and Australia, New Zealand and theatre of operations in event of war in Far East following minimum provision of cable service is essential—(a) East about; one cable of Eastern Telegraph Company system (b) West about; both trans-Atlantic cables the new Trans-Pacific cable. This provision will fall short of estimated requirements by approximately 20,000 words per day and makes no allowance for traffic to and from Canada and India.

(vii) On the assumption that no other cable services were available, balance of traffic would have to be carried by wireless. It is therefore of first importance that all wireless communications should be under effective British control.

Sub-Committee therefore emphasize that in their view all forms of communication cable as well as wireless will be required in war and that normal development of wireless communication should not be arrested in order to maintain essential cable service.

The interim report was considered and approved by Committee of Imperial Defence on November 1st. It was pointed out that Sub-Committee had only dealt with question from purely strategic aspects and that action that should be taken to put Sub-Committee's recommendation into effect was a matter which would have to be considered by Governments concerned at a later date. Sub-Committee now propose to proceed to an examination of their terms of reference as applied to Empire communications generally. Copies of Committee's interim reports will be sent by next mail.

266.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM

Ottawa, November 10, 1927

SECRET. Yours fourth instant received submitting summary of conclusions and recommendations sub-committee appointed to consider strategic aspects competition between beam wireless and cable. It is noted that in view sub-committee all forms of communication by cable as well as by wireless will be required in war and that in their opinion normal development of wireless communication should not be arrested in order to maintain essential cable service.<sup>1</sup>

All circumstances make it clear that it is urgently necessary to give immediate consideration to commercial position of the Pacific Cable as requested in our cables of July 30th and August 16th on which no action has

<sup>1</sup> Rien au dossier courant n'établit que cet alinéa fut expédié avec le message lui-même.

<sup>1</sup> It is not clear on the file copy of this document whether this paragraph was sent as part of the message.

yet been taken. Canadian Government therefore proposes that a committee be set up in London comprising representatives of the four interested governments to consider and report on whole commercial position of cable and question of broader policy as to future management, and particularly as to how cable and wireless systems can work together for their common advantage. Representatives on this committee should be invited to make concrete suggestions as to how cable might best be operated in future. Immediate appointment desirable as cable is losing money daily due to wireless competition and whole question becoming very serious one for all governments concerned.

We appreciate force of considerations as to appointment of chairman and advisability of visiting cable stations to report as to what economies can be effected but believe essential first to deal with broader questions of policy, particularly as recommendations of policy committee if set up might involve change in entire organization of Pacific Cable Board. Canadian Government therefore of opinion appointment of permanent chairman should be deferred until report of policy committee received which should be at latest before end of this year.

267.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM

London, December 8, 1927

IMPORTANT. SECRET. My telegram 18th November. Competition between Beam Wireless and Cables. H.M. Government in Great Britain agree with the proposal for immediate enquiry as outlined in Canada's telegram 10th November but feel that in view of the very serious financial consequences of the present competition with Cable service on the eastward route to Australia, New Zealand, South Africa and India, enquiry proposed should be extended to the question as a whole and not be limited to the Pacific cable aspect of the matter.

H.M. Government in Great Britain would accordingly propose that a special conference should be held in London as soon as possible composed of representatives of the Governments concerned, viz. Great Britain, Canada, the Commonwealth of Australia, New Zealand, Union of South Africa and India, and also a representative of non-self-governing Colonies and Protectorates with the following terms of reference: "To examine the situation which has arisen as result of the competition of the Beam Wireless with Cable service to report thereon and to make recommendations with a view to a common policy being adopted by the various Governments concerned". They would be glad to learn as soon as possible whether H.M. Government in the Dominions concerned would be willing to participate in the proposed conference and if so whom they desire to appoint as their representatives.

This telegram is being sent to Canada, Australia, New Zealand and similar telegram sent to Union of South Africa.

268.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM

Ottawa, December 15, 1927

SECRET. Your secret telegram 8th December, competition between beam wireless and cables. Government of Canada agrees that special conference be held in London as soon as possible to deal with situation but requests that terms of reference allow of representatives sending for such British cable and wireless bodies as they may wish and receiving from them such solutions of the existing problems as they may care to submit. Government of Canada nominates Sir Campbell Stuart as its representative on such conference board and will send a member of the Postmaster General's staff as adviser.

269.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM

London, December 22, 1927

SECRET. My telegram of 22nd December, competition between Beam Wireless and Cables. As regards particular points raised in your telegram of 15th December we have noted wishes of Canadian Government and agree that terms of reference should be interpreted as not precluding hearing of evidence or reception of suggestions from any Cable or Wireless bodies concerned.

270.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM 36

London, February 29, 1928

IMMEDIATE. SECRET. Imperial Wireless and Cable Conference now in session has requested that the following message may be transmitted to His Majesty's Government in Canada, Commonwealth of Australia, and New Zealand. Begins. Conference, in the course of examination into the whole of



the problems, has directed attention to the possible relation between the Pacific Cable Board and the Eastern Telegraph Company. As at present advised Conference is of the opinion that the British Empire Cable interests as now constituted are unable to continue in operation on a paying basis in the face of unrestricted competition on the part of wireless undertakings. Strategic conclusions confirmed by the Committee of Imperial Defence necessitate the retention of essential portions of the Eastern Cable Systems.

Conference is endeavouring therefore to agree on some proposals to put before the Governments which will allow Eastern Company and Pacific Cable Board to live, and which will not increase the rates. In determining this scheme the conference recognizes the definite economies to be realized through the transference to the Eastern Company of the management and operation of the Pacific Cable Board. Immediate saving approximates £80,000 per annum.

Conference recognizes the importance of reducing the expenditure of the Cable systems to a minimum in order to assist the reduction of rates. Conference considers that the time has arrived to ask His Majesty's Governments in Great Britain, Canada, Australia and New Zealand, whether they would view with favour arrangement whereby the Eastern Company would lease the Pacific Cable Board system, assuming that responsibility for repayment to His Majesty's Government in Great Britain of outstanding capital advances and deficits would maintain system, and would in effect guarantee the Board against loss, but the Board would retain reserve of about £185,000. Other conditions to be agreed would include assumption by Eastern Company of liability to compensate such staff as not taken over for which the existing pension fund approximately £140,000 would not probably suffice.

His Majesty's Government in Great Britain would probably require adequate safeguard for Imperial Cables traffic or alternative undertaking to lease Imperial Cables. Ultimate terms would of course be submitted to partner Governments for their approval but it is felt that in any negotiations with Eastern Company the Pacific Cable Board transfer if agreed, should be laid down as condition at the outset. Conference adjourns 5th March when it is hoped that replies may be received from Governments.

271.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 48

Ottawa, March 3, 1928

IMMEDIATE. SECRET. Your telegram No. 36 of 29th February regarding Wireless and Cables Conference received. His Majesty's Government in Canada would view with favour transference Pacific Cable Board system to Eastern Company with guarantee against loss and other terms as outlined.

Lease should run until at least 1950 by which time capital advances would be repaid to His Majesty's Government in Great Britain. Canadian representatives at Conference will be able to assist in detailed discussion of terms. It appears essential point that these agreed terms should be laid down at outset of negotiations with Eastern Company. The Canadian Government understands that the complete proposals will be ultimately submitted for approval.

272.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM B.17

London, March 9, 1928

IMPORTANT. VERY SECRET. At its Meeting today Imperial Wireless and Cable Conference requested that a communication on the following lines should be sent to His Majesty's Government in Canada, New Zealand, Union of South Africa, Commonwealth of Australia, Irish Free State, and to the Government of India. Begins. The Conference at a Meeting held on March 9th adopted a resolution as follows:

A solution of the present problem and the adoption of a common policy by the various Governments concerned would, in the opinion of the Conference, be facilitated by a merger between the Marconi Wireless Telegraph Company and the Eastern Telegraph and Associated Companies, provided that satisfactory arrangements to safeguard the interests of the public and Governments concerned are secured.

Pending communication with his Government the representative of the Union of South Africa reserved his position.

The considerations leading to adoption of this resolution are:

(a) The Conference is impressed with great activity of the foreign corporations aiming at securing the control of communications throughout the world. In their opinion consolidation of the British Cable and Wireless interests would be of supreme value in checking foreign enterprise throughout the Empire and in safeguarding the great British commercial interests in all parts of the globe.

(b) The Eastern Telegraph Company, in the absence of acceptable safeguards, would probably decide that present time is most opportune for going into liquidation, its reserves and realization on assets being ample to safeguard its shareholders.

(c) To prevent sale of Eastern Company's assets, particularly those in foreign territory, to foreign buyers, Governments would be powerless, unless themselves prepared to acquire companies system and take over their organization. This it is presumed would not be agreed to by the Governments concerned.

(d) If the private interests concerned were merged, negotiations with a view to putting into operation the schemes which have engaged the attention of Conference would be facilitated.

(e) To protect the interests of the public, stipulations could be included in any Government licenses granted to merged Company.

In connection with the assent to merger an essential objective would be transfer of Pacific Cables and Imperial Trans-Atlantic Cables to the merged Company on terms to be agreed upon. A merger between Eastern Telegraph Company and Marconi Companies is not opposed in principle by His Majesty's Government in Great Britain. To a solution being sought on this basis Conference desire to know whether other Governments entertain any objection. The Conference has requested that representatives should draw attention of their Government to the nature of this communication which is essentially secret. It is hoped that replies will be received by March 14th, until which date the Conference has adjourned. Ends.

273.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

PARAPHRASE OF TELEGRAM 53

Ottawa, March 12, 1928

IMPORTANT. VERY SECRET. Your telegram March 9th, Circular B.17, transmitting communication from Imperial Wireless and Cables Conference. The Government of Canada has no objection in principle to the merger between the Eastern Telegraph and Associated companies and the Marconi Wireless Telegraph Company. In connection with the assent to the merger it is noted that essential objective would be the transfer of Pacific Cables and Imperial Trans-Atlantic Cables to the merged Company on terms to be agreed. The Canadian Government in this connection desires to recall message from the Conference transmitted in your telegram of the 29th February wherein Conference stated that in any negotiations with the Eastern Company the Pacific Cable transfer if agreed should be laid down as condition at the outset. Concurrence in this view was expressed in our reply of the 3rd March and applies to merged company also.

274.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM 202

London, November 5, 1928

IMMEDIATE. CONFIDENTIAL. My telegram November 3rd, Circular B.120. It will be observed that Clause 2 (b) of the Bill provides that annuities in

connection with West Indian undertaking as recalculated under Clause 2 (a) shall continue to be charged on Consolidated Funds of the United Kingdom, and that Clause 3 provides that nothing in repeal of previous Act shall affect arrangements for ultimate provision by Governments mentioned in schedule to West Indian Island Telegraph Act, 1924, of any sum required for repayment of any money borrowed for the purpose of West Indian undertaking. It has always been assumed, from correspondence exchanged with the Prime Minister of Canada, of which copies were enclosed in my despatch of 7th January, 1924, No. 21, and from the Governor General's despatch No. 159 of 15th April, 1925, that His Majesty's Government in Canada accepted basis of scheme for West Indian Telegraph system which was that all Governments participating were responsible for share of deficits in proportion agreed. That deficit has always included all capital charges, *vide* Treasury Minute 19th December, 1924, copy of which was enclosed in my despatch 1st December, 1924, No. 523. We suggested in our Secret telegram of 27th July, 1928, No. 132, that liabilities for reduced shares of charges remaining if cable were sold under merger scheme should properly be shared in proportion specified in 1924 Act, and we had hoped that Government of Canada had accepted that view. We now learn from Campbell Stuart that Canadian understanding is that Canada contributed to West Indian system annually for a certain period of a limited amount, and that Postmaster General of Canada agrees with him that Canada has now no further liabilities under scheme. For reasons above explained our understanding was that guarantee of Government of Canada was not limited in time, and in view of joint liabilities shared with West Indian Government, we hope that Stuart's instructions do not represent final view, and that latter will still remain associated with West Indian scheme and responsible for agreed proportion of liabilities as reduced in amount and limited in time by operation of merger scheme. If sale of West Indian undertaking is completed before 20th December next, Canadian share of liabilities for that undertaking would represent capital sum of about £28,500 or an annuity commencing 20th December, 1928, and running to 1953 of about £1950 per annum. If sale not completed before 20th December, Canadian share of payments to National Debt Office on that date would be about £7900; her remaining debt would be about £22,000 or an annuity of about £1580 per annum, commencing 20th December, 1929, and running to 1953. It will be appreciated that if contributions attributable to His Majesty's Government in Canada ceased to be paid we should be compelled to approach West Indian Colonies with a view to their providing not only the proportion of charges originally attributable to them, but also a share of additional liabilities entailed by withdrawal of Canada from scheme, and that we should have to explain to their Governments that this request was necessitated by withdrawal from the scheme of His Majesty's Government in Canada.



275.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM B.34

London, March 23, 1929

IMPORTANT. CONFIDENTIAL. It will be seen from main agreement with Cable and Wireless Companies cabled to you in my telegram Circular B.35 that question of amount of annual lump sum payment to be made by Communications Company toward remuneration and administrative expenses of Imperial Advisory Committee is left to be settled by agreement between the Company and the Governments concerned. I understood that the Company would be willing to contribute such annual sums within maximum of £7500 as the Committee might require for its expenses, apart from cost of accountancy, examinations, etc., for which agreement makes separate provision. This sum after providing for general secretarial expenses on scale at present contemplated, and for a reasonable margin for contingencies, would suffice to enable the Members of the Committee to be paid at rate of £500 a year. With a view to the possibility of fixing the remuneration of the Members of the Committee at £750 a year, chairman designate of Communications Company was sounded on question whether Company would be prepared to pay larger sums, but he intimated inability to agree. In the circumstances we feel ourselves that it would be difficult to insist, and we should be glad to know whether Dominion Governments would be prepared to agree to settlement on basis suggested.

Financial Advisers to the Conference who have also acted as negotiators are strongly of opinion that Members of Committee should be persons of financial or business experience; so far as we are concerned we propose to act on this opinion and we commend it for consideration of Dominion Governments. We suggest also that there should be a general understanding or expectation that Members of Committee shall normally serve for, say, 4 years. As it is essential that Committee shall be constituted at earliest possible date we should be grateful if names of nominees of Dominion Governments (in cases where appointments have yet to be made) could be communicated when reply is sent on the general proposal set out above. We hope to be able to let you have within the next few days the names of the two persons to be nominated to represent the United Kingdom and Colonies and Protectorates.

276.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 78

Ottawa, April 30, 1929

IMMEDIATE. CONFIDENTIAL. With reference to your telegram, circular B.34 confidential March 23, 1929, regarding the appointment Imperial Advisory



Committee. Canadian Government agree with your view as to qualifications required for members of Committee, and expect to nominate as Canadian representative on Committee Sir Campbell Stuart who in addition to wide business experience has had extensive experience on Pacific Cable Board and as Canadian representative at Imperial Cable and Wireless Conference. Canadian Government also approve your suggestion that members of Committee should normally serve for four years. It appears questionable, however, whether proposed remuneration would ensure services of members of the requisite qualifications and experience.

277.

*Le Haut commissaire au secrétaire d'État aux Affaires extérieures*  
*High Commissioner to Secretary of State for External Affairs*

TELEGRAM 32

London, May 2, 1929

PERSONAL AND CONFIDENTIAL. Replying to your telegram, I am most anxious that matter should be concluded immediately and that I may be empowered to sign. As each day progresses Pacific Cable business goes down and Eastern goes up. We need Advisory Committee in being now to see that we get fair proportion of traffic via Canada. If legislation is essential, could I be empowered to sign documents with the proviso that they are subject to legislation. While it might be possible to conclude agreement after House dissolves and before elections, Opposition would be certain to ask what was the cause of delay, and think very undesirable we should become mentioned in this way during election campaign. British Government inform me they are becoming greatly embarrassed over the long silence on their part in announcing Rates Committee. I am discussing with Amery question of remuneration but this need not delay matter. Most anxious therefore that you give consent now and formally nominate Stuart, as whole matter is becoming personally embarrassing to me and delay more and more dangerous owing to the large number of interests only too glad to torpedo deal. Please advise me of your decision.

278.

*Le secrétaire d'État aux Affaires extérieures au Haut commissaire*  
*Secretary of State for External Affairs to High Commissioner*

TELEGRAM 35

Ottawa, May 8, 1929

IMMEDIATE. CONFIDENTIAL. Your telegrams Nos. 32 and 36 of May 2 and 7 regarding cable merger. We have informed Secretary of State for Dominion Affairs this morning that it has been considered necessary to secure legislative authority, that bill has been introduced and that upon passing of enactment of this measure Canadian Government will be prepared to authorize accep-

tance of agreements. Further consideration however has just been given to the situation and it is now deemed advisable that you should sign documents at once, with a reservation on your part that agreement by you on behalf of Canadian Government is subject to confirmation by legislation. It is desired that you should act and inform Mr. Amery accordingly.

279.

*Le secrétaire d'État aux Affaires extérieures au Haut commissaire*  
*Secretary of State for External Affairs to High Commissioner*

TELEGRAM 38

Ottawa, May 14, 1929

CONFIDENTIAL. With reference to my telegram No. 35 of May 8th, 1929 Cable merger it is our understanding that your signing the Agreement on behalf of Canadian Government does not imply any change of attitude regarding our West Indian reservation. The question however whether this reservation is to be maintained further will be considered at an early date.

280.

*Le secrétaire d'État aux Affaires extérieures au Haut commissaire*  
*Secretary of State for External Affairs to High Commissioner*

TELEGRAM 59

Ottawa, June 18, 1929

Your telegram June 17th. Legislation regarding Pacific Cable has received Assent. You are hereby authorized to state that following the enactment of legislation by Parliament Canadian Government have definitively approved main Agreement and to have Canadian representative on Pacific Cable Board convey similar definitive approval of Resolution of May 16th. Cabling Dominions Office consent of Canadian Government to sale of Pacific Cable undertaking and West Indian undertaking on terms of draft Agreement submitted, maintaining our reservation with respect to West Indies.

281.

*Le secrétaire d'État aux Affaires extérieures*  
*au secrétaire aux Dominions*  
*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 114

Ottawa, June 18, 1929

CONFIDENTIAL. Your telegram Circular B. 44 of April 13th, 1929. Sir Campbell Stuart has been appointed to represent His Majesty's Government in Canada on Imperial Communications Advisory Committee. We should be glad to learn views of His Majesty's Government in the United Kingdom as to announcement.

282.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 170

Ottawa, September 27, 1929

CONFIDENTIAL. With reference to part of our Confidential telegram No. 115 of 18th June, 1929, in regard to West Indian undertaking Canadian Government have given further consideration to their position in connection with nature and extent of their commitment and would appreciate being furnished at an early date with statement showing adjustment of figures given in your Confidential telegram No. 202 of 5th November, 1928, with a view to arriving at a definite conclusion. We should wish also to have figures representing Canada's share of payment for the Pacific Cable.

283.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM 137

London, October 1, 1929

Your telegram 27th September, Confidential, No. 170. Following is statement of position in regard to Pacific Cable. Begins. On the 30th September Company paid for assets transferable by delivery (Clause 6 of Agreement). Including interest sum received was £494,449 12s. of which Canada's share is £137,347 2s. 3d. Tax deducted by Company £6,990 18s. will be recovered by Pacific Cable Board for subsequent distribution of which Canada's share is £1941 18s. 4d. Company still have to pay £50,000 with interest to date of settlement which is not yet known. Canada's share of this calculating interest up to 30th September would be £14,929 12s. 1d. Total Canadian share will therefore be £154,218 12s. 8d., plus proportion of interest accruing after 30th September on balance owing by the Company. Ends.

Following is position in regard to West Indian undertaking. Begins. Under Clause 7 of the Agreement the Company paid on the 30th September for the assets transferable by delivery sum of £248,781 1s. 2d. which includes interest and allows deduction of annuities paid by the Company last December. The debt left due to the National Debt Commissioner is thus £137,104 4s. 5d. A sum of £1,216 4s. 9d. representing income tax is to be recovered and Company still owes £30,000 plus interest thereon to date of settlement. Calculating that interest to the 30th September giving £747 18s. 11d., that is assuming that full settlement had been made on that day, the outstanding debt would have been reduced to £105,145 9d. of which Canada's share would be £31,983 5s. 7d. If immediate authority is given for payment forthwith of that sum to the National Debt Commissioner out of amount due

to Canada on Pacific Cable, Canada's share of West Indian debt will be extinguished. This would be most convenient procedure. If, however, immediate settlement in full is not acceptable to Canada, the liabilities shown above will increase by interest roughly 5% per annum on £31,983 up to date of settlement. As balance which will accrue to Canada in respect of instalments not yet paid by Company for Pacific Cable will not be sufficient to cover the whole liability of £31,983 it would be appreciated if at least £20,000 could be deducted from the amount of £137,347 now awaiting distribution and paid to the National Debt Commissioner in part settlement of the Canadian liability. Ends.

Position may be summarised as follows:

Sum immediately due to Canada for Pacific Cable £137,347 plus at least £16,870 to come later. Canada's share of debt on West Indies £31,983 as on 30th September assuming Company had settled in full.

We suggest that His Majesty's Government in Canada authorize deduction of £31,983 5s. 7d. from cash due to Canada discharging in full and finally any West Indian obligations. Alternative, His Majesty's Government in Canada might agree to deduction of £20,000 from the sum now due to Canada which would ensure that the final net adjustment of the account on both Cables would be in favour of Canada. If the latter course is chosen, however, interest on proportion of outstanding West Indian debt would still be running against Canada.

284.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 177

Ottawa, October 10, 1929

Your telegram No. 137 of 1st October, 1929. Canadian Government accept your suggestion regarding deduction of amount referred to therein from share due to Canada on Pacific Cable with a view to discharging in full and finally what is described by you as being obligations of Canada in connection with West Indian undertaking.

285.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

DESPATCH 21

Ottawa, January 29, 1930

My Lord,

With further reference to your confidential Despatch No. 441 of the 29th July 1929, regarding the establishment of a direct commercial telephone

service between Canada and Great Britain by the instrumentality of the Bell Telephone Company of Canada and the Canadian Marconi Company, I have the honour to state that I am now in a position to convey the conclusions reached by the competent Canadian authorities.

It is represented in the despatch under reference that the operation of a service routing the traffic through New York would be more economical than a direct service through Montreal, that the direct Beam service would not enjoy the reliability of the combined short wave and long wave circuits through New York and that the American Telephone and Telegraph Company would not be disposed to make their circuit available as an alternative route in case of breakdown or interruption of the direct service.

I may say that the three main factors in order of importance, from our point of view, are:

- (1) Direct service through a station in Canada and a station in Great Britain;
- (2) Reliability of service;
- (3) Establishment of a rate materially lower than the rate charged on the American Telephone and Telegraph Company circuit.

Every phase of the question has been discussed with the Canadian Marconi Company and the Bell Telephone Company of Canada. We are informed by the latter that the American Telephone and Telegraph Company would be prepared to make the New York service available as an alternative route, provided the existing rates are maintained.

It is represented by our Authorities to the Canadian Companies that there did not appear to be any reason why a reduced rate might not be established for the direct route and the existing rates on the alternative American Telephone and Telegraph Company route maintained, the routing to be at the option of the calling subscriber. The Canadian Marconi Company are prepared to consider this proposal but the Bell Telephone Company are unable to accept it.

Under these circumstances and view of the fact that the reliability of the Beam is still a more or less unknown factor pending the result of a year's commercial operation, the Canadian Government agree, although not entirely without reluctance, to the proposal that the American Telephone and Telegraph Company circuit be retained as an alternative and that the rates on the direct service be the same as the rates now applying on the American Telephone and Telegraph Company circuit.

The Bell Telephone Company are prepared to enter into any further arrangements with other telephone administrations in Canada which may be found necessary or desirable.

The question as to whether the radio link in Great Britain should be provided by a station operated by the Imperial and International Communications Limited or by the British Post Office is left to the decision of the



Postmaster General in His Majesty's Government in the United Kingdom. Either arrangement would be acceptable to the Canadian Government.

I have the honour to state that the Canadian Government are prepared to accept the arrangements outlined. It is desired, however, that any contract that may be concluded by the British Postmaster General with the interested parties be of a short term character insofar as the question of rates is concerned, as it is the opinion of the Canadian authorities that the \$15.00 per minute rate now charged is too high and that as soon as the Beam demonstrates its ability to give reliable service they would contemplate a reduction of this rate.

Enclosed herewith for your information are copies of correspondence<sup>1</sup> with the Bell Telephone Company and the Canadian Marconi Company, which bears on the negotiations with them.

I have etc.

O. D. SKELTON  
for the Secretary of State  
for External Affairs

286.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

DESPATCH 332

Downing Street, June 19, 1930

Sir,

I have the honour to acknowledge the receipt of your despatches No. 21 of the 29th of January and No. 51 of the 10th of February regarding the establishment of a direct commercial telephone service between Canada and Great Britain.

The Postmaster General to whom your despatches were referred, has given careful consideration to the views expressed by His Majesty's Government in Canada. In particular he sees no serious objection to the provision of a direct Anglo-Canadian radio telephone service, and he proposes accordingly to take early steps to this end in conjunction with the Bell Telephone Company of Canada, the new services to be afforded at the recently reduced rate (£2 = \$10 a minute, minimum £6 = \$30) and to be available initially at this end in the United Kingdom of Great Britain and Northern Ireland and with the Irish Free State.

In regard to the details of the proposed service, the Postmaster General notes the comments made in your despatches on the subject of the rate to be charged to the public; and he assumes that the rate now proposed will meet the views of His Majesty's Government in Canada.

<sup>1</sup> Non reproduites.

<sup>1</sup> Not printed.

With regard to the form of the agreement to be entered into by the United Kingdom Post Office, the Postmaster General has given careful consideration to the views expressed in your despatch of the 10th February 1930. He attaches importance, however, to the necessary negotiation being conducted with one authority only on the Canadian side, which should normally be the telephone operating authority. He desires to point out that the conduct of the service will involve an agreement between the Canadian Bell Company and the Marconi Company of Canada on a large number of points with which the United Kingdom Post Office has no concern and to which the Postmaster General would not desire to become a party.

For these reasons, it seems to the Postmaster General to be preferable that an agreement should be negotiated between the Post Office and the Canadian Bell Company which will cover merely the conditions of service in which both these parties are concerned, leaving all other questions to be settled in agreements between the Canadian Companies. The Postmaster General is prepared, however, to recognize in such a two-party agreement the obligation of the Bell Telephone Company of Canada to use the Marconi radio stations in Canada for the purpose of the contemplated direct telephone service, and a clause to this effect is to be included in a draft agreement at present in preparation, a copy of which will be forwarded in due course for the observations of His Majesty's Government in Canada.

The Postmaster General concurs in the proposal of His Majesty's Government in Canada that the Canadian Marconi Company and the Bell Telephone Company of Canada, jointly or separately, should enter into any further arrangements with other telephone administrations in Canada which may be found necessary or desirable for the purpose of extending the scope of the direct Anglo-Canadian telephone service in Canada.

I have etc.

J. H. THOMAS

287.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 124

Ottawa, July 11, 1930

Your despatch No. 332 of 19th June regarding commercial telephone service between Great Britain and Canada. Canadian Government would prefer if the proposal for contract could remain in abeyance until an opportunity is afforded for personal discussion during the session of the Imperial Conference.

## CHAPITRE III/CHAPTER III

### RELATIONS AVEC LES ÉTATS-UNIS RELATIONS WITH THE UNITED STATES

- |                       |                          |
|-----------------------|--------------------------|
| 1. Eaux territoriales | 1. Territorial Waters    |
| 2. Contrebande        | 2. Smuggling             |
| 3. Pêcheries          | 3. Fisheries             |
| 4. Affaires variées   | 4. Miscellaneous Affairs |

#### PARTIE 1 / PART 1

#### EAUX TERRITORIALES TERRITORIAL WATERS

288.

#### *Décret du Conseil* *Order in Council*

P.C. 35

January 11, 1926

The Committee of the Privy Council have had before them a Report, dated 30th December, 1925, from the Secretary of State for External Affairs, submitting that he has had under consideration a despatch from His Majesty's Ambassador at Washington, dated the 20th October, 1925, No. 548, transmitting a note from the Secretary of State of the United States, calling attention to the erosion of the escarpment of Niagara Falls, and proposing joint consideration of the situation by the Governments of Canada and the United States, with a view to devising remedial measures, the enquiry to be confined to scenic questions and not to include the question of the diversion of water for power purposes.

The Minister states that he is advised by the Minister of the Interior, that investigations and studies have already been made by Governmental and other bodies on both sides of the river, of the erosion of the crest of the Niagara Falls and of possible remedial measures, and that it would appear to be advisable that advantage should first be taken of this available information and data, as it may later appear that it may prove sufficient to obviate the appointment of any special international body to make further studies.

The Minister points out, in connection with the proposal of the Secretary of State that the enquiry should not include consideration of diversions for power purposes, that any proposals for remedial or protective works for the preservation of the Falls appear to be inextricably interwoven with the consideration of the present and future diversions of water for power, and that it would appear to be impracticable to attempt to exclude the power phases from any study which might be jointly undertaken. Additional weight is given to this view by the fact that the Government of Canada is in receipt of representations from the Government of the Province of Ontario stressing the emergency which exists in that Province with respect to power, and requesting this Government to open negotiations with the Government of the United States with a view to reaching an agreement for securing an additional diversion of water for power purposes at the Falls, such an agreement to be of an interim nature pending the fullest consideration of all questions involved in the Great Lakes Watershed. It is generally understood that there is a somewhat similar emergency in the State of New York in respect to the shortage of power.

The Committee concur in the foregoing and, on the recommendation of the Secretary of State for External Affairs, advise that Your Excellency may be pleased to request His Majesty's Ambassador at Washington to inform the Secretary of State of the United States to the following effect:

Careful consideration has been given to the communication of the Secretary of State of the United States, and the Government of Canada is in accord with the view expressed therein that the preservation of the scenic beauty of Niagara Falls is a question of vital concern to both countries, and in view of the rapid advance of erosion, of which mention is made by the Secretary of State, and of other factors affecting the scenic values, the question merits joint consideration by the two Governments.

The Canadian Government understands that the question of the preservation of the Niagara Falls is a problem which has already received the attention and study of Governmental and other bodies upon both sides of the river, both with respect to the rate of erosion and to remedial measures, and it is believed that advantage might well be taken of such information before determining upon final procedure in this matter. In this connection, the Government of Canada desires to point out that the Niagara Board of Control, an international Board created at the suggestion of the Secretary of State of the United States, offers an immediately available means of securing and collating the results of investigations which have already been made, and believes that such a study by the Board would enable the two Governments at an early date to determine the nature and extent, if any, of the further investigations required, and to decide upon the most direct manner of securing a solution of the problem.

It is felt, however, that it is not practicable to conduct an enquiry into remedial measures for the protection of the Falls without taking into account the bearing of present and future diversions for power purposes. The questions of the preservation of scenic beauty and the utilization of water for power purposes are inextricably interwoven, and a decision on either issue could not well be made without taking into account the bearing of the other factor. Existing diversions have undoubtedly affected the Falls, both by reducing the total flow over the crest and, on the other hand, as a direct result of such reduction, by lessening the rate of erosion in the notch of the horseshoe. The question of the character and extent of any remedial structures which might be deemed advisable

for the protection of the Falls, and of the proper apportionment of the cost of such structures, cannot be determined without consideration of the possibility or advisability of further diversions. This view is strengthened by the fact that the question of securing an additional supply of power to meet the needs of the industrial area of Southern Ontario is reaching an acute stage, and it is understood that it has been authoritatively stated that similar conditions in respect to a shortage of power obtain in the State of New York.

The Government of Canada is therefore of the opinion that the problems of providing remedial measures for the preservation of the Falls and their scenic attractions, and of securing additional diversion of water for power should be dealt with concurrently. It is suggested, as a first step and with a view to securing early action, that accredited officers of the two Governments should confer for the purpose of drawing up for consideration the method of procedure which seems best adapted for the investigation and satisfactory determination of these two problems.

If this suggestion is agreeable to the United States Government, the Government of Canada will be pleased immediately to designate an accredited representative to confer with a representative of the United States Government.

All of which is respectfully submitted for Your Excellency's approval.

289.

*Le Gouverneur général à l'ambassadeur britannique aux États-Unis*  
*Governor General to British Ambassador in United States*

DESPATCH 24

Ottawa, January 29, 1926

Sir,

With reference to Your Excellency's despatch No. 594<sup>1</sup> of the 30th November last, I have the honour to inform you that the Government of Canada has given careful consideration to the communication of the Secretary of State of the United States as to the permit issued to the Sanitary District of Chicago by the Secretary of War on March 3rd, 1925, for the diversion of water from Lake Michigan.

The Canadian Government desires to express its appreciation of the clarity and definiteness of the interpretation of the current permit contained in the Secretary of State's notes of June 15th and November 24th. It is understood that the 8500 cubic second feet which the Sanitary District is authorized to withdraw includes the reversed flow of the Chicago and Calumet rivers, but is exclusive of the 1200 cubic second feet drawn from Lake Michigan for domestic purposes by the City of Chicago and eventually passing through the Sanitary Canal. The Canadian Government agrees that although, so interpreted, the permit does not effect any immediate reduction of the amount of water withdrawn, on the other hand it does not authorise—as there had been some ground for believing—an increase in the withdrawal beyond the amount previously in fact abstracted. It is further noted that it is the belief of the Government of the United States that the installation of sewage works and the metering of water supply and other measures will result by December

<sup>1</sup> Volume 3, document 895.

<sup>1</sup> Volume 3, Document 895.



31st, 1929, in a reduction of the present total of 9700 cubic second feet to a figure between 8000 and 6700 cubic second feet, and by 1935 or earlier to 4167 cubic second feet.

In the situation which has resulted from the policy of the Sanitary District in relying for sanitary purposes upon a diversion of water from the Great Lakes, the Canadian Government appreciates the force of the view set forth in the Secretary's note of the 24th November that the abstraction could not be entirely and immediately ended without imperilling in some degree the life and health of the citizens of the locality, but it has not been made acquainted with the considerations which have convinced the Secretary of War that the whole of the present withdrawal is essential on those grounds, and strong representations have been made to it indicating that a distinctly smaller flow would serve the sanitary needs of the district. In any case, the fact remains that on every day that the diversion continues it carries most serious loss to Canada and to every community on the Great Lakes and on the St. Lawrence, by reason of its effect in hindering navigation, in increasing the cost of harbour and canal and river improvements, and in reducing the hydro-electric power capable of development. The degree to which the considerations advanced as to the necessity of the diversions in the interests of the health of the citizens of the Sanitary District should carry weight would appear, further, to depend hereafter upon the degree of goodwill and effectiveness displayed in the carrying out of the works which have been made a condition of the permit.

The Government cannot conceal the apprehension in this connection, aroused in Canada by certain proposals for the construction of an Illinois and Mississippi waterway, proposals embodied in measures already introduced into Congress during the present session, or reported as about to be introduced, and which appear to be based and to depend upon the indefinite continuance of the abstraction of the water of the Great Lakes through the Chicago Sanitary District Canal, and even upon the increase to 10,000 cubic feet per second of the amount abstracted. It feels certain that the Government of the United States will agree that whatever temporary and limited concessions might be made upon the ground of public health, no other ground warrants the withdrawal of water from the Great Lakes, much less the extension of the present diversion. It believes it to be a recognized principle of international practice that unless by joint consent, no permanent diversion should be permitted to another watershed from any watershed naturally tributary to the waters forming the boundary between the two countries, and in any case the decision of the United States Supreme Court of January 5th, 1925, recognizes that in the present instance, the Treaty of January 11th, 1909, expressly provides against uses "affecting the natural level or flow of boundary waters" without the authority of the United States or the Dominion of Canada within their respective jurisdictions, and the approval of the International Joint Commission agreed upon therein.

In conclusion, the Government of Canada desires to express its appreciation of the evident desire of the Government of the United States to find a

solution of the problem fair to all interests, and its hope that such a degree of progress will shortly be attained as will warrant those who now suffer from the diversion in counting upon its early termination. The Canadian Government would, in this connection, appreciate any statement which the Secretary of State may find it possible to make as to the progress which has been attained by the Sanitary District and by the Municipality of Chicago in the provision of the measures called for by the conditions of the current permit which will actually diminish the abstraction from the Great Lakes.

I have etc.

BYNG OF VIMY

290.

*L'agent aux États-Unis au sous-secrétaire d'État  
aux Affaires extérieures*

*Agent in United States to Under-Secretary of State for External Affairs*

Washington, March 23, 1926

My dear Dr. Skelton,

In the matter of the United States Supreme Court Case No. 16, Original, State of Wisconsin, et al. Complainants, vs. State of Illinois and the Sanitary District of Chicago.

I have just sent you the following telegram with respect ruling handed down yesterday by the Supreme Court of the United States:

The Supreme Court yesterday issued an order in Sanitary District Case as follows, begins: In view of the difficult questions arising on the record we delay stating our conclusion until the case is made and all the facts are before us on the pleadings and the evidence. The motion to dismiss the bill is therefore overruled without prejudice to any question and with leave to proceed in due course ends. Stop. Since the State of Michigan's new suit against Chicago has been set for October fourth next it is likely that Lake States case will not be proceeded with until fall term of Supreme Court.

While as yet I have not heard any comment on the ruling, it appears that the effect of it is to postpone final action until the fall term of the Supreme Court when the case will be heard upon its merits.

Now that the Chicago Sanitary District has lost its contention that the Lake States had no right to challenge its diversion of water from Lake Michigan, and since the Lake States were granted leave to proceed with the case, it would seem that the Supreme Court's ruling may have a further effect of precluding the possibility of Congressional action that might tend to legalize the diversion of 10,000 cubic feet from Lake Michigan.

When Mr. Johnston was here we discussed the matter of procuring a copy of the transcript of oral argument before the Supreme Court. I am informed that neither the Lake States nor the defendants have as yet decided as to whether their arguments will be printed in pamphlet form. In the circum-

stances I am following Mr. Johnston's suggestion and sending a copy of the transcript herewith, which was purchased from the reporter at a cost of \$55.00. In the event that copies are printed for use of the departments interested, I should be most grateful if you could send me two copies for the files of this office.

Yours faithfully,

M. M. MAHONEY

291.

*Mémoire du sous-secrétaire d'État aux Affaires extérieures  
au secrétaire d'État aux Affaires extérieures*

*Memorandum from Under-Secretary of State for External Affairs  
to Secretary of State for External Affairs*

Ottawa, April 20, 1926

Attached is a telegram<sup>1</sup> from Mahoney containing a press statement given by the Department of State in Washington on waterways negotiations.

During the conference at Washington between Mr. Stewart and Mr. Hoover, Mr. Hoover stated that there would be great difficulty in preventing a Bill going through Congress authorizing the diversion of 10,000 feet of water from Lake Michigan for the Illinois Mississippi Waterway. Such a Bill would nullify the attempt of the administration to reduce the water now abstracted gradually to 4,167 c.s.f. by 1935. Chicago and the Mississippi Valley interests however were, he said, pressing strongly and seemed to be gaining support. Mr. Hoover added that if he were able to state that negotiations were under way with Canada for an investigation of the whole lake levels question with a view to considering to what extent the fall in the lakes was due to climatic changes and how it could be overcome by remedial or compensatory works, he thought it would be possible to block the waterway's proposal. Mr. Stewart declined to agree to such an investigation at the present time on the ground that it would divert attention from Chicago's action and lessen the likelihood of a satisfactory solution of the problem. Later, when the St. Lawrence report and the Niagara report were both in, it might be possible to consider the general lake level question.

Judging by this telegram, Mr. Hoover, or Mr. Kellogg, has decided in spite of Mr. Stewart's statement, to use this argument as a means of blocking the canal project. Their statement may imply that rather more is going on than is actually the case. It is, however, true that discussion is taking place both on the Chicago Drainage Canal abstraction and the Niagara Falls diversion. It is wholly to our interest that Mr. Kellogg and Mr. Hoover should be able, if possible, to block action by Congress this session.

The only difficulty is that possibly questions will be raised here as to the extent of the negotiations. In that case it would seem necessary to be careful

<sup>1</sup> Non reproduit.

<sup>2</sup> Not printed.

not to hamper by any statement the efforts of Mr. Kellogg and Mr. Hoover. So far as our own people are concerned, it would seem sufficient to say that the discussion on the question would be made public at the appropriate time.

O.D. SKELTON

292.

*Le sous-secrétaire d'État aux Affaires extérieures  
au secrétaire, Gouverneur général*

*Under-Secretary of State for External Affairs  
to Secretary, Governor General*

Ottawa, April 26, 1926

Sir,

I am to request that His Excellency may be humbly moved to ask His Majesty's *Chargé d'Affaires* at Washington to bring to the attention of the Secretary of State of the United States, at his earliest convenience, certain phases of the diversion of water from the Great Lakes, to which reference was made in His Excellency's despatch No. 24 of the 29th January, 1926.

The Government of Canada has been led by recent press reports to invite the attention of the Government of the United States again to the international aspect of projects now being pressed in Congress for the construction of an Illinois-Mississippi Waterway which involved the withdrawal of water from the Great Lakes system through the Chicago Sanitary District Canal. The explicit or implicit authorization by Congress of such withdrawal for navigation purposes would, as has previously been represented, introduce a further disturbing factor into the consideration of a situation already of much difficulty.

The approaching report of the Joint Engineering Board upon the proposed St. Lawrence Waterway, including certain aspects of lake levels, the probability of joint consideration at an early date of the Niagara situation, and the assurances contained in the note<sup>1</sup> of the United States Secretary of State of November 24th, 1925, of progressive reduction of the present abstraction at Chicago would seem to provide bases for discussion by the two countries of all outstanding waterways problems. The discussion and settlement of these issues would be seriously complicated were the Chicago abstraction to be confirmed by enactments which would appear to add national to state approval and to recognize diversions for navigation purposes in addition to the sanitary purposes which alone were stated in the Secretary of State's note of November 24th, 1925, to be the basis of the present permit. The Government of Canada has, of course, no intention of expressing any opinion upon the purely United States phases of the projected waterway, but it cannot overlook its bearing upon the vital interests of Canada in the preservation of

<sup>1</sup> Volume 3, pièce jointe du document 895.

<sup>1</sup> Volume 3, Document 895, enclosure.



the Great Lakes system which Canada shares with the United States, and of the national sections of the St. Lawrence waterway. Those common interests and the neighbourly goodwill which has marked the settlement of our boundary waterways problems reinforce the principles of international practice and the provisions of the Boundary Waterways Treaty in the conclusion that no diversions from the Great Lakes involving a transfer of water from a common watershed to another should be effected or confirmed in either country, unless after joint consideration and agreement. It is hoped that the Government of the United States will agree that only through the recognition of this principle can a firm basis be secured for safeguarding the interests of both countries.

I have etc.

O. D. SKELTON

293.

*Le sous-secrétaire d'État aux Affaires extérieures  
au secrétaire, Gouverneur général*

*Under-Secretary of State for External Affairs  
to Secretary, Governor General*

Ottawa, April 27, 1926

Sir,

With reference to the despatch from His Majesty's Ambassador at Washington to His Excellency, No. 165 of April 6th, 1926, transmitting a note from the Secretary of State of the United States of April 1st with reference to the preservation of Niagara Falls and other phases of the situation there, I am instructed to state that the Canadian Government has given consideration to the proposals of the Secretary of State, and that in accordance with the views exchanged in previous despatches and in the conference in Washington on March 18th, it has pleasure in concurring.

The Canadian Government agrees that steps should be taken to secure a joint presentation of the engineering data in connection with scenic preservation and other questions arising at Niagara Falls; that for this purpose a report with recommendations should be submitted by the Niagara Board of Control, with the addition to the Board for this purpose on the part of each Government of an expert versed in scenic effect; that the study should include the question of present water diversions at Niagara and of temporary or ultimate possible increase in diversions for power purposes, predicated, however, complete preservation of the scenic beauty of the Falls and taking into consideration the climatic changes affecting the lake levels and outflow of the lakes, for the purpose of determining the influences of these changes upon the flow available in the Niagara River; and that the Board will not enter into the question of the distribution of water.

The Government of Canada has therefore designated Colonel O. M. Biggar to co-operate with a representative of the Government of the United States in



formulating detailed instructions for the Board of Control for informal consideration by the two Governments and upon approval, subsequent delivery to the Board for action; he will be prepared to meet the representative of the United States Government at an early date and at whatever point is found convenient to both representatives. The Canadian Government will have pleasure in nominating later an expert versed in the scenic considerations involved, to act with the Niagara Board of Control.

I am to request that His Excellency may be humbly moved to communicate with His Majesty's Ambassador at Washington in the above sense.

I have etc.

O. D. SKELTON

294.

*L'ambassadeur britannique aux États-Unis au Gouverneur général*  
*British Ambassador in United States to Governor General*

DESPATCH 236

Washington, May 28, 1926

My Lord,

I have the honour to transmit to Your Excellency herewith copy of a note from the United States Government drawing attention to the harmful effect of certain dredging operations in the waters of the Upper Niagara River and in the St. Clair River, and containing certain suggestions for cooperation between the Governments of Canada and of the United States in remedying the present unsatisfactory state of affairs.

Your Excellency will doubtless notify me in due course of the nature of the reply which it is desired that I should return to the enclosed note.

I have etc.

ESME HOWARD

[PIÈCE JOINTE/ENCLOSURE]

*Le secrétaire d'État des États-Unis à l'ambassadeur britannique*  
*aux États-Unis*

*Secretary of State of United States to British Ambassador*  
*in United States*

Washington, May 26, 1926

Excellency,

My attention has been called to a situation, regarding dredging operations in the waters of the Upper Niagara River and in the St. Clair River, which, it is considered, renders desirable a measure of closer cooperation between this

Government and the Government of Canada for the proper preservation of the interests of the two Governments.

I am advised that these operations are conducted by private concerns for commercial gain and upon a scale which has affected the levels of the Niagara and St. Clair rivers as well as of Lake Erie and of Lake Huron, and in addition, the navigation of these waters.

The dredging in the Niagara River has, in greater part, been conducted upon the United States side of the international boundary line and, since March 1, 1923, has been subject to the terms of a revokable permit of the Secretary of War. However, I am advised, that recently orders directing the suspension of dredging operations have been issued to all parties holding such permits, except in those localities which are within the shore lines of Squaw Island below the City of Buffalo. This action was prompted by the finding that the removal of sand and gravel from the United States side of the Niagara River has had the effect of altering the natural channel, decreasing its slope and of causing a permanent, though possibly a small, lowering of the level of the Niagara River, and the level of Lake Erie, all of which is of a serious nature insofar as the interest of navigation is concerned.

It is understood that very little dredging in the Niagara River has heretofore been resorted to on the Canadian side, due in part to the fact that the least valuable deposits of sand and gravel are found on that side, and due also to the fact that the Government of Ontario imposes a charge of 12¢ a yard for commercial dredging. The strict limitations now imposed upon dredging in the United States waters, are likely to be followed by efforts by the dredging companies to obtain permits for dredging of some magnitude on the Canadian side, which it is believed, would be as injurious to navigation as that being terminated on the United States side.

With reference to the St. Clair River, I am advised that extensive dredging operations of private concerns are being conducted and that great quantities of sand and gravel have been removed from the Canadian side of the international boundary water; that this dredging has had the effect of lowering the level of Lake Huron  $\frac{3}{10}$  of a foot; that in the St. Clair River, for the distance of over one mile, in the vicinity of Sarnia, the dredging has produced a depth of fifty to sixty-five feet where in 1900 it was but twenty to thirty feet. The gravity of this situation is patent. Its unrestricted continuation will obviously work permanent damage to the rights of both Governments in the boundary waters.

I understand that the Canadian authorities, in appreciation of the situation are disposed to take appropriate action to restrict dredging. However, it is thought that an agreed uniform policy of control, under permit, rather than the separate action of the two Governments, would be more effective to prevent interference with the natural level and flow of these waters. Under

such a policy consideration would be possible, with relation to all dredging operations, of the exact limitations which a comprehensive study would prompt.

It is suggested, for instance, that the operations of dredging for gravel and sand in the Upper Niagara River, may without harm or effect upon the level of navigation of the River, be permitted in those localities which are behind the shore lines, where it will not affect the discharge capacity of the River; that such dredging may be permitted close to, or within the shore lines of Squaw Island, Buffalo and possibly in the interior of Strawberry Island, under conditions insuring that its shore line will be preserved sufficiently to prevent interference with the regimen of the River. It is also to be assumed, that dredging within limitations, may appropriately be permitted upon the Canadian side of the boundary in the Upper Niagara River, as well as in the St. Clair River.

It is suggested that the desired and necessary control of commercial dredging in the waters mentioned may be accomplished by the adoption by the Governments of the United States and Canada of a uniform policy with reference to restrictive conditions on licensing for such dredging, or by the issuance of permits in form for reference to the International Joint Commission.

I should be glad if you will bring this matter to the attention of the Canadian Government and will inform me of its views on the subject.

Accept etc.

FRANK B. KELLOGG

295.

*L'ambassadeur britannique aux États-Unis au Gouverneur général*

*British Ambassador in United States to Governor General*

DESPATCH 411

Manchester, July 30, 1926

My Lord,

With reference to Your Excellency's despatches Nos. 24 and 95 of January 29th and April 26th last, regarding the diversion of water from Lake Michigan by the Sanitary District of Chicago, I have the honour to transmit to you herewith copy of a note from the United States Government replying to my representations on this question based upon Your Excellency's despatches above mentioned.

A copy of this despatch and its enclosure is being communicated to His Majesty's Government.

I have etc.

ESME HOWARD

## [PIÈCE JOINTE/ENCLOSURE]

*Le secrétaire d'État des États-Unis à l'ambassadeur britannique  
aux États-Unis*

*Secretary of State of United States to British Ambassador  
in United States*

Washington, July 26, 1926

Excellency,

In your note No. 91 of February 5, 1926, relating to the diversion of water from Lake Michigan by the Sanitary District of Chicago, reference was made, among other matters, to the failure on the part of this Government to state in its note of November 24 last the considerations which convinced the Secretary of War that the whole of the amount of the withdrawal of water authorized by the permit which he issued on March 3, 1925, to the Sanitary District, is essential to the protection of the life and health of the citizens of the locality and to the apprehension of the Canadian Government that measures under consideration by Congress relating to the construction of an Illinois and Mississippi waterway are based upon or depend on the indefinite continuance of the abstraction of water of the Great Lakes through the Chicago drainage canal at the present rate of diversion or even upon the increase to 10,000 cubic feet per second of the amount abstracted. You also stated that the Government of Canada would appreciate any statement which this Government might find it possible to make as to the progress which has been attained by the Sanitary District and by the Municipality of Chicago in the provision of measures called for by the conditions of the permit of March 3, 1925, which will actually diminish the abstraction from the Great Lakes.

In the Embassy's undated note No. 299 received by the Department on May 1, 1926, reference again was made to the project before Congress for the construction of an Illinois-Mississippi waterway and it was stated that the discussion by the United States and Canada of all outstanding waterways problems would be seriously complicated were the abstraction at Chicago confirmed by a legislative enactment by Congress which would recognize diversions for navigation purposes.

With reference to the diversion limits, I may state that the investigations made by the War Department showed that those prescribed were the least consistent with due regard to the health of the large population affected by the matter. The material reduction in flow through the Sanitary Canal in 1925, when it averaged about 8,250 cubic feet per second, caused by low lake levels, developed dangerous sanitary conditions, and has conclusively shown that reduction below the amount named in the permit, cannot safely be required until the sewage treatment plants in the course of construction by the city, are further advanced. The authorizing of an instantaneous maximum not to exceed 11,000 cubic feet per second was due to the fact that at times the flood discharge of the Chicago River is as high as 10,000 cubic feet per



second and that the flow through the canal should then be large enough to produce a slope characteristic of a flood of that volume. Otherwise the sewage carried by the river will be swept into the lake and pollute the city water supply. The supply is not filtered, and such pollution would be so extensive that it would not be counteracted by chemical treatment.

The permit issued by the Secretary of War provides for the installation of controlling works to prevent such flood discharges into the lake but the execution of the complete program required by the permit will be very costly, and it is felt that the installation of sewage disposal plants should have first attention in order sooner to reduce diversion. For these reasons, the paragraph of the permit relating to the controlling works does not require the installation of these works until 1929. Preliminary investigations concerning the installation have been made and it is expected that detailed plans will be prepared during the ensuing year. No difficulty in the completion of these works prior to the expiration of the permit is anticipated.

In connection with the question of progress made toward the reduction of diversion, I may state that the permit of March 3, 1925, assigned supervision of the program for installing sewage treatment works to the District Engineer at Chicago. He has recently reported that the progress made by the city in carrying out the program is satisfactory. It is understood that the schedule of expenditures adopted for this purpose by Chicago is as follows:

1925 —	\$17,789,000
1926 —	12,733,000
1927 —	9,379,000
1928 —	10,215,000
1929 —	1,370,000

The average sanitary flow through the drainage canal in 1925, after the deduction of about 1,277 cubic feet per second used by the city of Chicago for domestic purposes, was about 7,000 cubic feet per second. The installation of water meters was provided for by appropriations made by the City Council in January of this year, and consequently it may be expected that in the near future there will be a reduction in the consumption of water used for domestic purposes.

The Bill "Authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes" containing a provision authorizing the improvement of the Illinois River, was not enacted into law during the session of Congress which recently closed. It is understood that the Bill will be taken up for consideration shortly after the next session of Congress convenes in December.

While this Government is glad to give the Canadian Government the factual information requested by Your Excellency, it is not prepared to admit the conclusions stated in Your Excellency's notes of February 5, 1926, and May 1, 1926, as to the legal status of the withdrawal of waters from Lake Michigan. It does not, however, deem it necessary to enter into a discussion of this phase of the question at the present time.



The United States is prepared to discuss, as suggested in Your Excellency's note of May 1, 1926, the outstanding questions affecting the Great Lakes and their waterways with a view to arriving at joint engineering solutions of those questions and the protection and development of great waterway resources for the mutual benefit of both countries.

Accept etc.

FRANK B. KELLOGG

296.

*Le Gouverneur général au chargé d'affaires britannique aux États-Unis*  
*Governor General to British Charge d'Affaires in United States*

DESPATCH 207

Ottawa, October 28, 1926

Sir,

With reference to Sir Esme Howard's despatch No. 236 of the 28th May, 1926, enclosing a copy of a note from the United States Government suggesting co-operation between the Governments of Canada and the United States for the purpose of remedying an unsatisfactory state of affairs in connection with dredging operations in the waters of the Upper Niagara River and in the St. Clair River, I have the honour to state that the Canadian Government has given careful consideration to this communication and observes that the harmful effects on the water levels of the Great Lakes and connecting rivers, of unrestricted dredging operations, has been a matter of concern for some years, and notes with appreciation the statement in the Secretary's communication that recently orders have been issued directing the suspension of dredging operations upon the United States side of the International Boundary, in the upper Niagara River, except in those localities which are within the shore line of Squaw Island, below the City of Buffalo.

As the United States Government may not be fully aware of the manner in which commercial dredging is being controlled on the Canadian side of the boundary, it may be stated that all such dredging operations are being carried on under the careful supervision of the Dominion Department of Public Works. This Department, in its control of this situation, realizes its responsibility for the maintenance of proper navigation conditions in these International waters, and its actions are guided solely with that in view. All licences issued by the Government of the Province of Ontario are expressly subject to this Dominion supervision.

In the upper Niagara River, on the Canadian side, the quantities of gravel removed under licence to date have been negligible, amounting only to some 69,655 cubic yards during the past ten years. In the St. Clair River, the Dominion Department of Public Works, in an endeavour to maintain as largely as possible the natural levels of the Great Lakes and at the same time give proper attention to the strict needs of commercial navigation, has increasingly curtailed the amount of material to be removed and the areas in

which dredging is permitted, strictly and totally in the interest of commercial navigation and to such an extent only as is absolutely necessary for the continuance of such safe navigation. Locations where shoaling detrimental to navigation exists are marked out and the Department maintains inspection on all boats permitted to operate for the removal of this material.

It is evident from the foregoing that the Dominion authorities are giving careful consideration to the restriction of commercial dredging in such a manner as to protect lake levels and maintain proper navigation conditions. It is equally evident from the action of the United States Federal authorities with respect to dredging in the upper Niagara River, as set forth in the Secretary's note of May 26th, that fully as careful consideration is being given to this matter on the United States side of the boundary.

With respect to the Secretary's suggestion of the adoption by the Governments of the two countries of a uniform policy for the control of commercial dredging, the Canadian Government feels that this will be accomplished if the procedure, which by co-operation heretofore has become an accepted procedure, is definitely agreed upon by mutual understanding that the respective Government controls over dredging operations in the two countries should be exercised with the prior object of maintaining the lake levels and of safeguarding to the greatest possible extent proper navigation conditions on the lakes and connecting waters. With such an understanding between the two Governments, there would appear to be little possibility of further injurious dredging being countenanced on either side of the line. Should any difference of viewpoint develop with respect to any particular locality, following such understanding, the provisions of the Boundary Waters Treaty make an adequate provision for reaching a common agreement.

Should the United States Government be agreeable to the foregoing suggestion, the Government of Canada will have pleasure in considering the understanding effective at once, and will have instructions issued to its officers directly in charge of the operations in the areas affected to interchange views and data with the officers charged with similar responsibilities on the United States side of the boundary.

The officers of the Canadian Government in responsible charge of the districts in question are:

For the St. Clair River,—The District Engineer, Department of Public Works of Canada, London, Ontario; and

For the Niagara River,—The District Engineer, Department of Public Works of Canada, Toronto, Ontario.

It would seem to be an opportune time in connection with the consideration of this subject to call attention to instances of poaching which have occurred in the St. Clair River, and which it has been extremely difficult, if not impossible, to deal with properly owing to it being an International water. It is, therefore, suggested that if the Government of the United States feel disposed to take into consideration the possibility of strengthening the hands

of its officers so that the practice of poaching the sources of supply of merchantable sand and gravel may be stamped out, the Canadian Government is prepared to take effective measures to this same end.

I shall be grateful if the views of the Canadian Government, as set forth above, may be communicated to Mr. Secretary Kellogg in reply to his note of the 26th May, 1926.

I have etc.

WILLINGDON

297.

*Le secrétaire d'État des États-Unis au chargé d'affaires britannique  
aux États-Unis*

*Secretary of State of United States to British Chargé d'Affaires  
in United States*

Washington, December 7, 1926

Sir,

I am pleased to refer to your Note Number 711 of November 16, 1926, and to Mr. Grew's reply of November 26, 1926, regarding the publication of certain correspondence between the Department and the Embassy relating to the diversion of water from Lake Michigan by the Sanitary District of Chicago and to submit the following observations.

It appears to this Government that the report of the Joint Board of Engineers on the St. Lawrence Waterway Project greatly alters the understanding of the situation with respect to diversions from the Great Lakes watershed and that it would be undesirable to publish the correspondence which was based upon at least a partial misapprehension of the facts.

It has been the impression, at least in many parts of Canada and the United States, that the fall of some thirty inches in lake levels which has proved so burdensome to shipping interests was very largely due to the diversion at Chicago. The report of the Joint Board of Engineers shows that only a small part of the fall in lake levels has been due to that diversion.

Thus the report of the Joint Board of Engineers demonstrates that instead of the Chicago diversion being in any major degree responsible for the lowering of lake levels it has been responsible therefor to only a minor degree. So far as the diversion at Chicago together with other artificial diversions, including those into Canada, contributes to the lowering of the lake levels the effect can, according to the report, be corrected by the construction of compensatory works. With the question reduced to the dimensions indicated in the joint report, it seems to this Government that it would be advisable to suspend publication of the correspondence referred to in your note and to enter upon a further discussion of the practical question of providing compensatory works as recommended by the Joint Board of Engineers.

In view of this greatly altered understanding of the matter this Government considers that no good purpose would be served by a further publication of previous correspondence but that it should be possible to arrive at a complete understanding of the situation by a discussion of the practical remedies now before us.

I shall be grateful if you will cause the views of this Government to be brought to the attention of the Canadian Government.

Accept etc.

FRANK B. KELLOGG

298.

*Le secrétaire d'État des États-Unis à l'ambassadeur britannique  
aux États-Unis*

*Secretary of State of United States to British Ambassador  
in United States*

Washington, February 8, 1927

Excellency,

I have the honor to refer to your Embassy's note No. 678 of November 2, 1926, replying to my note of May 26, last, in which it was suggested that the Governments of the United States and Canada adopt a uniform policy for the restriction of dredging operations in the waters of the upper Niagara and St. Clair Rivers. Permit me to thank you for the information which the Embassy furnished in respect of dredging on the Canadian side of the boundary and in regard to the supervision which the Dominion Government maintains over it.

It was stated in the Embassy's note that the Canadian Government feels that a uniform policy of control will be accomplished if the procedure which heretofore has been accepted in the United States and Canada is definitely agreed upon by mutual understanding that the respective Government controls over dredging operations in the two countries should be exercised with the prior object of maintaining the lake levels and of safeguarding to the greatest possible extent proper navigation conditions on the lakes and connecting waters.

It was also stated that if the Government of the United States be agreeable to the foregoing suggestion, the Government of Canada would have pleasure in considering the understanding effective at once, and would have instructions issued to its officers directly in charge of operations in the areas affected to interchange views and data with the officers charged with similar responsibilities on the United States side of the boundary.

The note further suggested the possibility of cooperation between the United States and Canada to stamp out poaching the sources of supply of merchantable sand and gravel.



I have the honor to inform you that the suggestions made by the Canadian Government are acceptable to this Government and that therefore the proper authorities of this Government are being requested to issue the necessary instructions for carrying out the provisions of the understanding thus effected.

I shall be glad if you will communicate these facts to the Canadian Government in order that it may, in accordance with the terms of the understanding, have instructions issued to put the understanding into effect immediately.

Accept etc.

FRANK B. KELLOGG

299.

*Le secrétaire d'État des États-Unis au ministre aux États-Unis*  
*Secretary of State of United States to Minister in United States*

Washington, April 13, 1927

Sir,

For more than one hundred years, the Great Lakes and the St. Lawrence River have furnished a common highway and transportation outlet for the population in the interior of the continent in both the United States and Canada. The waterway has been the subject of several treaties and conventions between the two countries. Its development has been a matter of continuous effort on the part of both countries.

Pursuant to reference made to the International Joint Commission by both governments under authority of the Treaty of January 11, 1909, that commission made investigation of the feasibility of improving navigational facilities of the St. Lawrence River between Montreal and Lake Ontario so as to transform that section into an ocean shipway. The Commission submitted its report, signed on December 19, 1921, to your Government and to the Government of the United States after taking into consideration the existing characteristics of the waterway and its projected development, as well as the essential economic factors. It earnestly recommended to both governments the making of a treaty for a scheme of shipway improvement of the river between Montreal and Lake Ontario. It suggested, however, that before final decision be made, the engineering features should receive further consideration and study. Delays naturally ensued due to the problems of reconstruction resulting from the war.

On March 14, 1924, the President of the United States appointed the St. Lawrence River Commission under the chairmanship of the Honorable Herbert Hoover, Secretary of Commerce, to consider the whole project in its economic and national aspects and to express an opinion as to whether the project should be undertaken and the Government of Canada on May 7, 1924, appointed a national advisory committee under the chairmanship of the Honorable George Perry Graham, Minister of Railways and Canals. Through



the arrangements brought about by these committees the two governments by exchange of notes dated February 4 and March 17, 1925<sup>1</sup>, gave instructions to a Joint Board of Engineers designated by them to review and extend the engineering plans as recommended by the International Joint Commission in 1921.

This Joint Engineering Board made an elaborate resurvey of the lake and river systems both as to navigation and power, and filed with each government an exhaustive report upon all its engineering aspects. The representatives of the two countries differed as to a few details but from the report it clearly appears that the improvement of the waterway for navigation and power purposes is both feasible and advisable.

The St. Lawrence River Commission appointed by the President to advise this Government on the subject recently undertook an examination of all of the economic as well as engineering facts bearing upon the proposed development and has made a complete report covering all aspects. It concluded that the construction of the shipway at proper depths would relieve the interior of the continent, especially agriculture, from the economic handicaps of adverse transportation costs which now operate to the disadvantage of many states and a large part of Canada, would serve the industrial well being of both countries in the development of their power resources, and would tend largely to the increase of prosperity and the stimulation of industry. The Commission recommended that negotiations should be entered into with your Government in an endeavor to arrive at an agreement as to the speedy development of this waterway.

The Government of the United States adopts the recommendations of the St. Lawrence Commission. It appreciates the advantages which will accrue equally to both countries by the opening of the waterway to ocean shipping. It feels that the necessary increase in railway rates due to the war, and the modern practices respecting the generation and transmission of hydro-electric power have increased the importance and practicability of early development, and believes that the factors which influence its conclusions must have equal application to, and influence upon, the Dominion of Canada.

In view of the action already taken by both governments, it is apprehended that they are in accord on the principle that the project should be undertaken. If this Government's conclusion in this respect be correct, there only remains to be effected an understanding as to the methods and means for its earliest accomplishment. It seems highly appropriate that the development of the common highway for the benefit of both countries should be jointly undertaken.

This Government is prepared to enter into negotiations with a view to the formulation of a convention appropriate to this subject and should be grateful to be informed of the views entertained on this subject by your Government.

Accept etc.

FRANK B. KELLOGG

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<sup>1</sup> Volume 3, document 943.

<sup>1</sup>Volume 3, Document 943.

300.

*Décret du Conseil**Order in Council*

P.C. 1304

June 30, 1927

The Committee of the Privy Council have had before them a Report, dated 21st June, 1927, from the Minister of the Interior, with reference to the note of 26th of May, 1927, from the United States Secretary of State, addressed to the Honourable Vincent Massey, Minister of Canada at Washington, containing a proposal for the appointment by the Government of Canada of a representative to cooperate with the District Engineer at Duluth in the negotiations for the purchase of flowage easements along the shores of Lake of the Woods and the banks of Rainy River, in the United States, in accordance with the Protocol accompanying the Lake of the Woods Convention of 24th of February, 1925, between His Britannic Majesty in respect of the Dominion of Canada, and the United States.

The Minister refers to Article VIII of the said Convention, in part as follows:

A flowage easement shall be permitted up to elevation 1064 sea-level datum upon all lands bordering on Lake of the Woods in the United States, and the United States assumes all liability to the owners of such lands for the costs of such easement.

and to Article X, in part as follows:

In consideration, however, of the undertakings of the United States as set forth in Article VIII, the Government of Canada shall pay to the Government of the United States the sum of two hundred and seventy-five thousand dollars (\$275,000) in currency of the United States. Should this sum prove insufficient to cover the cost of such undertakings one-half of the excess of such cost over the said sum shall, if the expenditure be incurred within five years of the coming into force of the present Convention, be paid by the Government of Canada.

and to paragraph 2 of the Protocol accompanying the Convention as follows:

Should it become necessary to set up a special tribunal to determine the cost of the acquisition of the flowage easement in the United States provided for in Article VIII of the Convention, the Government of Canada shall be afforded an opportunity to be represented thereon. Should the cost be determined by means of the usual judicial procedure in the United States, the Government of Canada shall be given the privilege of representation by counsel in connection therewith.

The Minister observes that in accordance with the foregoing provisions, the Government of Canada through the Canadian Legation at Washington did on 1st of April, 1927, transmit to the Government of the United States the sum of \$275,000.

The Minister states that the United States Secretary of State in his note of 26th of May, points out that the Act of Congress to carry into effect the provisions of the Convention, approved 22nd of May, 1927, (Public No. 269, 69th Congress) authorizes and directs the Secretary of War to acquire by purchase or by condemnation, the flowage easements and such lands or interest therein as are necessary to provide for protective works and measures

in the United States along the shores of Lake of the Woods and the banks of Rainy River as specified in the Convention, and states further that the Secretary of War has been advised that the United States District Engineer at Duluth, Minnesota, to whom has been assigned the immediate supervision of the acquisition of flowage easements as contemplated by the Treaty and the Act of Congress, believes that it will be possible to secure a large percentage of these flowage easements at reasonable prices through direct negotiations with the owners of the land.

While the second paragraph of the Protocol above quoted provides for Canadian representation in case a special tribunal is set up, the United States Secretary of State points out that no provision is made for Canadian representation in cases where the easements are acquired by purchase as a result of direct negotiation, and proceeds to suggest that there should be such a Canadian representative located at a point where ready communication and cooperation with the United States District Engineer at Duluth would be practicable, such representative to have authority to express the agreement or disagreement of the Canadian Government as to the reasonableness of the proposed purchase agreements.

The Minister is of the opinion that it is greatly to the interest of Canada that such a representative should be appointed to cooperate with the United States District Engineer at Duluth in the manner indicated.

The Minister therefore recommends that Mr. C. H. Attwood, District Chief Engineer of the Dominion Water Power and Reclamation Service, at Winnipeg, Manitoba, be appointed to act as the Canadian representative to cooperate with the District Engineer at Duluth, Minnesota, in the direct purchase negotiations and to act as the agent of the Minister of the Interior in expressing, on behalf of the Government of Canada, a measure of approval or otherwise of the proposed purchase agreements in the matter of the acquisition of the flowage easements along the shores of Lake of the Woods and the banks of Rainy River in the United States, in accordance with the terms of the Convention and Protocol between His Britannic Majesty in respect of the Dominion of Canada, and the United States, and as signed at Washington on the 24th of February, 1925.

The Committee concur in the foregoing recommendation and submit the same for approval.

301.

*Le Premier ministre au secrétaire d'État des États-Unis*

*Prime Minister to Secretary of State of United States*

Ottawa, July 12, 1927

Sir,

The Government of Canada has received and considered carefully the note of the Secretary of State of the United States to the Canadian Minister at Washington of April 13th, 1927, on the St. Lawrence waterway.

It shares the appreciation felt by the Government of the United States of the importance of the problem of the development of the St. Lawrence and of the aid in the solution of the engineering aspect of this problem afforded by the reports of the international joint commission and of the joint board of engineers appointed by the two governments in 1925.

The report of the joint board of engineers signed on November 16th, 1926, while unanimous in many respects, indicated differences of opinion on important phases of the development proposed. It is understood that in the appendices to the report, which are in preparation, certain further alternative schemes will be presented which will be of essential value in arriving at a conclusion.

The national advisory committee appointed by the Government of Canada to report on the economic and general aspects of the St. Lawrence waterway question will not be in a position to make a final report until all the findings of the joint engineering board including the appendices are available. Upon receipt of the report of the national advisory committee and upon consideration of the other factors involved, the Government of Canada will be able to determine its policy on the question, and will then have pleasure in discussing further with the Government of the United States at as early a date as possible the whole situation, including the proposals contained in the present note of the Secretary of State.

Accept etc.

W. L. MACKENZIE KING

302.

*Le chargé d'affaires aux États-Unis au secrétaire d'État des États-Unis*  
*Chargé d'Affaires in United States to Secretary of State of United States*

No. 230

Washington, September 1, 1927

Sir,

I have the honour to refer to the note which you addressed to Mr. Chilton on December 7th, 1926, regarding the publication of certain correspondence relating to the diversion of water from Lake Michigan by the Sanitary District of Chicago.

His Majesty's Government in Canada has noted that the Government of the United States considers that the reference in the Report of the Joint Board of Engineers on the St. Lawrence Waterway Project to the limited effect on lake levels of the diversion of water through the Chicago Sanitary Canal greatly alters the understanding of the situation, and that it might accordingly be considered undesirable to publish the correspondence in question.



I have been instructed to inform you that His Majesty's Government in Canada has not been under any misapprehension as to the extent to which the abstraction of water through the Chicago Sanitary Canal has lowered the levels of the Great Lakes and that it has been fully advised that this lowering has been in the neighbourhood of six inches. The papers which His Majesty's Government in Canada desires to publish incorporate its viewpoint with respect to the *general principle* of abstracting water from the Great Lakes System and diverting it into another watershed, and include the protests of the Government of Canada against the abstraction, submitted on behalf of the people of Canada generally, as well as the protest of the Government of Ontario, submitted on behalf of the people of that Province. Any reference in the report of the Joint Board of Engineers as published, as to the actual effect of the withdrawal of water through the Sanitary Canal, does not in any degree whatsoever affect the viewpoint of His Majesty's Government in Canada as expressed in this correspondence.

His Majesty's Government in Canada desires to take this opportunity of pointing out that if any misapprehension exists in the United States or in Canada as to the degree of lowering occasioned by the Chicago abstraction, the publication of these papers will go a long way towards removing such misunderstanding.

With reference to the suggestion that His Majesty's Government in Canada enter upon a further discussion of the practical question of providing compensatory works as recommended by the Joint Board of Engineers, it may be pointed out that the installation of compensatory works for the restoration of lake levels will in no way recoup to the Great Lakes System the power which is lost to that system by the water abstracted therefrom through the Sanitary Canal. While recognizing the marked advantages which may be gained by the construction of suitable compensation works, His Majesty's Government in Canada would not be prepared to enter upon a discussion of any plans for the construction of such works, if this course involved an assumption that the present abstraction is to continue.

With reference, however, to the question immediately under consideration, His Majesty's Government in Canada observes nothing in the Report of the Joint Engineering Board, including Appendices, which would render inadvisable the publication of the papers in question. On the contrary it is considered that the release of these papers would have a marked effect in clarifying public opinion on the question in both countries.

I have the honour therefore to enquire whether the Government of the United States would not be prepared to publish the correspondence listed in Mr. Chilton's note of November 16th, 1926, together with subsequent correspondence, at such early date as may be found convenient to both Governments.

I have etc.

LAURENT BEAUDRY



303.

*Le secrétaire d'État des États-Unis au ministre aux États-Unis*  
*Secretary of State of United States to Minister in United States*

Washington, October 17, 1927

Sir,

In further reply to your Legation's note, No. 230, of September first, I have the honor to inform you that this Government raises no objection to the publication of the correspondence referred to therein, relating to the diversion of water from Lake Michigan at Chicago.

This Government has not failed to recognize the importance of the contentions made by the Canadian Government relating to the abstraction of water from one watershed and the diversion of it into another. In my note of July 26, 1926, I informed the British Ambassador that this Government was not prepared to admit the conclusions of law stated in his notes of February 5, 1926, and May 1, 1926, on this question. I did not think it was advisable to enter into a discussion of this legal question in view of the fact that the issues involved in certain cases which were then and are still pending in the Supreme Court of the United States are closely parallel to the questions presented in the Ambassador's notes. For this same reason I do not now desire to enter into a discussion of this question at the present moment.

This Government, however, has heretofore indicated that it is prepared to enter into discussions and negotiations with Canada covering the whole question of preservation of Lake levels in the mutual interest of the two countries.

This Government is glad to note the agreement by the Government of Canada with the conclusions of the Joint Board of Engineers that the diversion at Chicago has affected lake levels less than six inches. It also notes the feeling on the part of the Canadian Government that lake levels could be dealt with, so far as navigation is concerned, by compensating works as recommended by the Joint Board of Engineers. It would appear in this connection that the question as to the practical results of diversion in its effect on navigation could be entirely remedied.

As to the observation by the Canadian Government that the installation of compensatory works to restore lake levels would not recoup to the Great Lakes System the power lost to the system by the diversion at Chicago, I would, without in any way admitting the principles of compensation, call attention to the fact that Canada now receives 36,000 second feet at Niagara as against 20,000 cubic feet per second on the American side for power purposes. I would further observe that without development of the lower St. Lawrence this question does not arise in that connection.

I again wish to point out that all these problems appeal to the American Government as matters that may be settled by practical engineering measures which might be adopted pending further discussion of the principles involved.

Accept etc.

FRANK B. KELLOGG

304.

*Le ministre aux États-Unis au secrétaire d'État aux Affaires extérieures*  
*Minister in United States to Secretary of State for External Affairs*

DESPATCH 820

Washington, October 19, 1927

CONFIDENTIAL

Sir,

With reference to my despatch Number 819 of even date, with which was enclosed a copy of a note<sup>1</sup> from the Secretary of State on the subject of the publication of certain papers regarding the diversion of water from Lake Michigan, I have the honour to make the following observations on the text of this reply.

2. The refusal in the second paragraph to discuss the legal issues involved while certain cases are pending in the Supreme Court of the United States, appears to me to be reasonable, since the end of the long drawn out legal battle with the Chicago Sanitary District appears to be at last in sight.

3. It will be observed that the Government of the United States draws inferences in the fourth paragraph from the expressions used in Mr. Beaudry's note to the Secretary of State of September 1st. last, which do not appear to be fully justified by the text of that document. The phrase "in the neighbourhood of six inches" employed with reference to the effect on lake levels of the diversion, has become in the Secretary of State's reply "less than six inches". Also a reference to "the marked advantages which may be gained by the construction of suitable compensating works" for the restoration of lake levels, has been interpreted as implying a feeling on the part of the Government of Canada that "lake levels could be dealt with, so far as navigation is concerned, by compensating works as recommended by the Joint Board of Engineers".

4. I would especially direct your attention to paragraph 5 of Mr. Kellogg's note in which, after a reference to the present unequal diversion at Niagara, the observation is made that the loss of power within the Great Lakes system through the abstraction at Chicago does not become a practical question "without development of the lower St. Lawrence". This statement appears to ignore the feasibility of an increased power diversion at Niagara Falls, if the water now deflected to the Mississippi system were to be retained in the Great Lakes.

I have etc.

VINCENT MASSEY

<sup>1</sup> Voir le document ci-dessus.

<sup>1</sup> See preceding document.

305.

*Le ministre aux États-Unis au secrétaire d'État des États-Unis*  
*Minister in United States to Secretary of State of United States*

No. 30

Washington, January 31, 1928

Sir,

I have the honour to refer to your note of April 13, 1927 in which, after reviewing the steps taken in recent years by the United States and Canada to enquire into the feasibility of a St. Lawrence ocean shipway, you stated that the Government of the United States had accepted the recommendations of the St. Lawrence River Commission, appointed by the President as an advisory body, and was accordingly prepared to enter into negotiations with Canada with a view to formulating a convention for the development of the waterway.

Acknowledgment of this communication was made in a note of July 12, 1927, addressed to the Minister of the United States at Ottawa, in which it was stated that, as the report of the Joint Board of Engineers indicated differences of opinion as to the solution of the engineering difficulties presented by the international section of the waterway, the National Advisory Committee, appointed by His Majesty's Government in Canada to report on the economic and general aspects of the waterway question, would not be in a position to advise the Government until certain alternative schemes under consideration by the Joint Board, and to be included in the appendices to the main report, had been received and duly considered.

The full report of the Board has now been received, and the National Advisory Committee, which met in Ottawa this month, has reported its conclusions to His Majesty's Government in Canada. The National Advisory Committee concurs in the finding of the Joint Board of Engineers that the project is feasible. It recommends, however, that should the work be undertaken, fuller allowance should be made for future requirements by providing, in addition to 30-foot depth for the permanent structures, 27-foot navigation in the reaches rather than the 25-foot navigation proposed by the Joint Board. While the National Advisory Committee regards the project as feasible from an engineering standpoint, and notes the findings of the International Joint Commission in 1921 as to its economic practicability, it considers that the question of its advisability at the present time depends upon the successful solution of a number of financial and economic difficulties, and upon further consideration of certain of the engineering features as to which the two sections of the Joint Board of Engineers are not as yet agreed. I am instructed by the Secretary of State for External Affairs to inform you that His Majesty's Government in Canada concurs in these conclusions of the National Advisory Committee.

In your note of April 13, it was observed that the St. Lawrence River Commission had reported that the construction of a shipway at proper depth

would relieve the interior of the continent, especially agriculture, from the economic handicaps of adverse transportation costs which, it was indicated, now operate to the disadvantage of many States and a large part of Canada. It was added that the Government of the United States appreciated the advantages which would accrue equally to both countries by opening up the waterway to ocean shipping, and that the necessary increase in United States railway rates due to the war, and the desirability of early development of hydro-electric power, were factors which must have equal application to, and influence upon, the Dominion of Canada.

In view of the implications as to Canadian conditions contained in these observations, it may be well to indicate certain features of the transportation situation in Canada which have a direct bearing upon the St. Lawrence waterway question.

For many years past the improvement of transportation has been the foremost task of successive governments of Canada. At heavy cost, an extensive programme of railway, waterway and harbour development has been carried out, with the object of linking up all parts of the Dominion and providing adequate outlets for foreign trade. Two great trans-continental railway systems have been built up, largely with State aid, and both western and eastern Canada are now reasonably well served by railways, though increasing settlement and increasing production render it necessary for both systems to continue to spend large sums annually in the provision of branch lines. Western Canada is now looking to the early completion of the Hudson Bay route to Europe. This route, which it is anticipated will be available in about three years, will shorten the haul to Europe from the Canadian West by a thousand miles and more, and will also be of substantial benefit to shippers from the Western States. Since that work was projected, the completion of the Panama Canal, by the efforts of the United States, has supplied an alternative outlet for much of western Canada through Vancouver and Prince Rupert; and at the present time the Canadian Government is faced with a strong demand for an additional and more direct outlet to the Pacific for the Peace River country. The St. Lawrence route itself has been progressively improved, and has proved of steadily increasing service.

Partly as a result of the existence of competitive alternative outlets, railway rates in Canada are in general lower than in the United States. The rates on grain, which provides fifty-two per cent of the total traffic of western lines, are now below pre-war level. Material reductions have also been made in another bulk movement of importance to both eastern and western Canada, namely, coal. General commodity rates, which were the subject of the same percentage of relative increase in both countries, due to war conditions, have subsequently been reduced in Canada, in certain instances, to a greater extent than in the United States. In recent months a rate on grain has been established from the head of the Lakes to Quebec which approximates the charges incident to the movement by water by the present Great Lakes-St. Lawrence route, a route which, in Canada, has always exercised a restraining influence on railway rates. As the greater part of Canada's railway mileage is now



owned and operated by the State, the St. Lawrence proposals, insofar as they may possibly affect the revenues of the railways, present considerations as to which Canada's point of view is necessarily somewhat different from that of the United States.

Canada's interest in the improved navigation of the Great Lakes-St. Lawrence route would be associated largely with the movement of bulk commodities, such as grain, timber and coal. The movement of package freight by water in Canada is at present of small volume, and Canadian railways, unlike, it is understood, those of the Midwest of the United States, are in a position to handle much more of that traffic than at present is offered.

It is believed that development of the waterway would prove of advantage to Canadian commerce and industry, not merely in the sections directly tributary to the Great Lakes and St. Lawrence, but in the Maritime sections, which would be afforded more direct access to the great interior markets of the continent. It is, however, apparent that the United States would benefit much more from the enlarged navigation facilities, both in extent of use and in margin of saving. The report of the International Joint Commission in 1921, after a comprehensive review of the economic aspects of the project, presented the following conclusions, to which the National Advisory Committee calls attention:

As to the economic practicability of the waterway, the commission finds that, without considering the probability of new traffic created by the opening of a water route to the seaboard, there exists today, between the region economically tributary to the Great Lakes and overseas points as well as between the same region and the Atlantic and Pacific seabords, a volume of outbound and inbound trade that might reasonably be expected to seek this route sufficient to justify the expense involved in its improvement.

It finds that, as between the American and Canadian sides of the tributary area, the former contributed very much the larger share of this foreign and coastwise trade, and in all probability will continue to do so for many years to come. The benefits to be derived from the opening of a water route to the sea will, therefore, accrue in much larger measure to American than to Canadian interests, though it is reasonable to assume that eventually the advantages may be more evenly distributed.

The report of the International Joint Commission continues, in a direct reference to comparative transportation conditions:

It finds that the existing means of transportation between the tributary area in the United States and the seaboard are altogether inadequate, that the railroads have not kept pace with the needs of the country, but that this does not apply to the Canadian side of the area, where railway development is still in advance of population and production.

It will therefore be observed that the transportation situation in the two countries is not identical as to available facilities, extent of use, or rates, and that the economic handicaps to which you referred in your note of April 13th



appear to have more application to United States than to Canadian conditions. In this connection, it may be said that Canadian agriculture is more directly affected by the restrictions on the importation of Canadian farm products which have been imposed by the United States in recent years, with the object, it is understood, of assisting agriculture in those Western States which would share so largely in the benefits of the proposed St. Lawrence Waterway. This situation, and the effects upon the Maritime sections of Canada of United States duties on the products of the fisheries, are among the factors which have contributed to bringing it about that public opinion in Canada has not so clearly crystallized in favour of the waterway project as appears to be the case in the United States.

Reference was made in your note to the early development of hydro-electric power as a factor which must have equal application to and influence upon the Dominion of Canada. The opportunity of developing great quantities of power incidental to navigation is, it is agreed, a special advantage possessed by the St. Lawrence project, and an important consideration in determining its advisability. In this aspect of the project, however, there are again special features in the Canadian situation which it is desirable to make clear. Public opinion in Canada is opposed to the export of hydro-electric power, and is insistent that such power as may be rendered available on the St. Lawrence, whether from the wholly Canadian section, or from the Canadian half of the international section, shall be utilized within the Dominion to stimulate Canadian industry and develop the national resources. With this view the National Advisory Committee expresses itself as in complete accord. The Committee further indicates that, in view of the relatively limited capacity of the Canadian market to absorb the vast blocks of power contemplated by the St. Lawrence proposals, it follows that it is most important, in any arrangement which may be considered, that the development of power on the Canadian side should not exceed the capacity of the Canadian market to absorb it.

The situation presented by the differences of opinion brought out in the report of the Joint Board of Engineers as to the best method of development in the International section of the St. Lawrence has also received consideration by the National Advisory Committee. The Committee considers it greatly in the public interest that a further attempt should be made to reconcile these varying views. Conclusive assurance is necessary as to control of the fluctuations of flow from Lake Ontario, so essential to the interests of the purely national sections of the river and the port of Montreal, and as to the situation of those Canadian communities on the St. Lawrence, which under certain of the present plans might be obliged to live under levees or to rebuild in part. A plan has been presented in the appendices to the report of the Joint Board of Engineers proposing an alternative location of the upper works of the Canadian two-stage plan. It is also considered advisable that opportunity

should be afforded for further conference on these alternative proposals between the Canadian section of the Joint Board and engineers representing the Province of Ontario, who have themselves formulated plans dealing with the international section.

The financial phases of the project have been reviewed by the Committee. It is pointed out that for many years Canada has been engaged in improving the navigation of the St. Lawrence River, both above and below Montreal, and in providing navigation facilities across the Niagara peninsula. At the same time, the United States has been similarly engaged in deepening inter-connecting channels of the Upper Lakes, and in providing suitable works at Sault Ste. Marie. Towards the common object, Canada has made particularly heavy contributions. It has expended over thirty millions on the ship channel which has made possible ocean navigation on a large scale to the port of Montreal, an expenditure by which the proposed St. Lawrence project will directly benefit. The Dominion has spent fifty millions on canals and channel improvements between Montreal and Lake Erie, in which improved navigation United States shipping has had equal use and advantage. To the present, Canada has spent eighty-seven millions on the Welland Ship Canal. In view of these facts and of the very heavy financial burdens imposed by the war, by the railway obligations arising out of the war, and by the necessity, since the war ended, of finding the large sums required for needed public works throughout the Dominion, it is considered that it would not be sound policy to assume heavy public obligations for the St. Lawrence project.

The National Advisory Committee has reached the conclusion that it is possible to work out a method by which provision could be made for the construction of the waterway on terms which would be equitable to both countries and would take adequate account of the special factors in the Canadian situation to which attention has been directed. Several methods have been considered, but the plan which chiefly commends itself to the Committee is, in brief, that Canada should consider providing for the construction of the waterway in the sections wholly Canadian, that is, the Welland Ship Canal and the works in the St. Lawrence below the international boundary, and that the United States should consider undertaking the completion of a 27-foot waterway to the head of the Lakes, in addition to meeting the entire cost of the development, under joint technical supervision on lines to be agreed upon, of the international section of the St. Lawrence, both for navigation and for power. The construction of the wholly Canadian (Welland and St. Lawrence) sections, and, if the United States should see fit, of the upper lakes works, would, on this plan, be given precedence of the international section, because of the necessity alike of providing for further consideration of the engineering problems involved in the international section and of permitting reasonable absorption of the power developed on the Canadian side.

In support of this view, the following statement is submitted by the Committee, based on expenditures by both countries on the present through waterway, and on the estimated cost of the presently recommended scheme,

with 27-foot navigation, a new United States lock at Sault Ste. Marie of the same dimensions as proposed for the St. Lawrence shipway, and the development, on the St. Lawrence, of such power as is incidental to navigation:

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CANADA			
<i>Present works:</i>			
St. Lawrence ship channel .....	\$ 30,000,000		
St. Lawrence and Welland Canals .....	50,000,000		
Lock at Sault Ste. Marie, Ontario .....	5,560,000	\$ 85,560,000	
<i>Proposed works:</i>			
Welland Ship Canal .....	\$115,600,000		
Wholly Canadian section, St. Lawrence shipway, 27-ft. navigation and development of 949,300 h.p. ....	199,670,000	\$315,270,000	
Total for Canada .....		\$400,830,000	
UNITED STATES			
<i>Present works:</i>			
Dredging St. Clair & Detroit Rivers .....	\$ 17,536,000		
Locks at Sault Ste. Marie, Michigan .....	26,300,000	43,836,000	
<i>Proposed works:</i>			
International section St. Lawrence shipway 27-ft. navigation and initial development of 597,600 h.p. ....	\$182,157,000		
To complete development—additional power 1,602,000 h.p. ....	92,090,000		
Upper lake channels to 27-ft. ....	65,100,000	339,347,000	
Total for United States .....		\$383,183,000	

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In bringing these conclusions of the National Advisory Committee to the attention of the Government of the United States, His Majesty's Government in Canada desires to add that there are phases of the question, particularly as regards the development of power, as to which it is necessary to take account of the special concern of the two provinces of Canada bordering on the waterway. The relation between navigation and power involves certain constitutional difficulties, of which, in accordance with the wishes of the Governments of Ontario and Quebec, the Government of Canada proposes to seek a solution by reference to the Courts. With this preliminary difficulty in process of solution, the Government of Canada will be in a position, upon learning from the Government of the United States whether in its view the procedure above outlined affords an acceptable basis of negotiation, to consult with the Provinces of Ontario and Quebec on the aspects of the problem with which they may be concerned, and thus to facilitate an understanding being reached between all concerned as to the methods and means by which the project could be undertaken.

It is the hope of the Government of Canada that, in any such further consideration of the waterway question, opportunity may be found for reaching a comprehensive settlement of all outstanding problems affecting the Great Lakes and the St. Lawrence, including the preservation of the waters properly belonging to the St. Lawrence watershed, of which the present discussion indicates the paramount importance.

I shall be obliged if you will be good enough to inform me at your convenience, for transmission to His Majesty's Government in Canada, of the views of the Government of the United States on the representations which are outlined above.

I have etc.

VINCENT MASSEY

306.

*Le sous-secrétaire d'État aux Affaires extérieures  
au ministre aux États-Unis*

*Under-Secretary of State for External Affairs  
to Minister in United States*

PERSONAL

Ottawa, February 14, 1928

My dear Mr. Massey,

During Mr. Kellogg's visit to Ottawa, he discussed a few business questions briefly with Mr. King.

I have already referred to their discussion on the immigration quota question. Another subject discussed was the St. Lawrence waterway. Mr. Kellogg made it clear that there was not likely to be any serious difficulty as to apportionment of the cost, though the figures given in the Canadian note he said would require some checking and possible revision. He was also prepared to consider steps that might be taken for making up for the undue share of cost of maintenance that would fall on Canada, perhaps through the imposition of small tolls. Incidentally it may be added that a reference to the possibility of imposing tolls for maintenance cost was included in the first draft of the waterways despatch, but it was later thought not advisable to raise this question for the present. As to export of power, he repeated that this was of course a matter for Canada to settle, that the United States did not ask for export of power, but that if Canada wished to arrange export for a temporary period, an absolute guarantee for the return of the power at the end of a specified date would be given. He added that the United States was coming to the view that government construction and ownership of the power, with leaseings to private interests, was the most feasible method of development. But, he continued, it would be very difficult for the United States to make any arrangement if Canada wished to oppose both immediate



construction of the navigation section and the export of power. He realized the difficulty created by provincial rights—state rights not affording much concern to the Federal Government of the United States—but felt that time was the essence of the agreement, if an agreement there was to be. He hoped that in the thirteen months which remained to him in office, he would have an opportunity to share in the making of a treaty, but he realized that it was quite likely that this would not prove possible. Mr. King referred to the political features of the case, and particularly the undesirability of having to fight another issue such as was involved in the Reciprocity Election of 1911.

Mr. King had planned to discuss the arbitration treaties and the International Joint Commission, but beyond a brief reference I gather this question was not taken up.

Mr. Kellogg left an extremely favourable impression here and seemed to enjoy his visit.

Yours sincerely,

O. D. SKELTON

307.

*Le ministre des États-Unis au secrétaire d'État aux Affaires extérieures*  
*United States Minister to Secretary of State for External Affairs*

No. 76

Ottawa, February 18, 1928

Sir,

I have the honor to inform you, under instructions from my Government, that the United States War Department states that on January 26, 1928, it requested that the Attorney General direct the institution of condemnation proceedings for the acquisition of a flowage easement up to elevation 1064 sea level datum upon lands bordering on Lake of the Woods in the United States and upon which the War Department has been unable to purchase such flowage easement.

Under Paragraph 2 of the Protocol accompanying the Treaty to Regulate the Level of the Lake of the Woods, signed at Washington on February 24, 1925, it is provided that the Government of Canada shall be given the privilege of representation by counsel in case judicial procedure is resorted to for determination of the cost of acquiring such flowage easement.

It therefore seems necessary to state that steps have been taken to institute condemnation proceedings in the above mentioned sense and to acquaint you with the fact in order that the Canadian Government can, of course, arrange to avail itself of the privilege of representation by counsel in the proceedings.

I am informed that the proceedings in question will be conducted by the United States District Court for the District of Minnesota, and that represen-



tatives of your Government can secure detailed information concerning them from the United States Attorney at St. Paul, Minnesota, or from the United States District Engineer at Duluth, Minnesota.

I avail myself etc.

WILLIAM PHILLIPS

308.

*Le ministre des États-Unis au secrétaire d'État aux Affaires extérieures*

*United States Minister to Secretary of State for External Affairs*

No. 79

Ottawa, February 24, 1928

Sir,

I have the honor to inform you that under authority of the United States the Rivers and Harbors Act of January 21, 1927, made provision for the improvement of the Middle Neebish Channel, St. Mary's River, Michigan, in accordance with a plan and project printed in House Document No. 270, 69th Congress, First Session. Parts of the channel in question, as shown and indicated on the accompanying plan entitled, "St. Mary's River widening Middle Neebish Channel, work in Canadian territory", file No. D.S.K. 15/41, overlap the International Boundary and before beginning operations on the project, it will be necessary to obtain the consent of the Canadian Government for the parts of the work which lie in Canadian waters.

In bringing this matter to your attention, I venture to request that your Government be good enough to give its approval to the execution by the United States of the dredging involved located in the vicinity of Rains Island (Sailors Encampment). It is stated that the dredging proposed is to be carried to a depth of twenty-two feet referred to the usual datum for Lake Huron of 579.6 feet above mean sea level.

I avail myself etc.

WILLIAM PHILLIPS

309.

*Le ministre des États-Unis au secrétaire d'État aux Affaires extérieures*

*United States Minister to Secretary of State for External Affairs*

No. 71[81?]

Ottawa, March 5, 1928

Sir,

I have the honor to inform you that the Congress of the United States in River and Harbor Act of March 3, 1925, a study has been made of the

advisability and cost of removing shoals in the St. Lawrence River with a view to providing a depth of twenty-two feet between Ogdensburg, New York, and Lake Ontario.

It has been ascertained that of the shoals considered necessary to be removed a number lie in Canadian waters. The estimated cost of this entire work is said to be \$214,500 of which \$114,500 covers the removal of shoals in Canadian waters.

I venture to inquire, under instructions from my Government, as to whether the Canadian Government is interested in an improvement of this nature and whether it would undertake to remove the shoals on the Canadian side of the international boundary. I shall greatly appreciate an expression of the opinion of the Canadian Government respecting this proposed improvement.

I avail myself etc.

WILLIAM PHILLIPS

310.

*Le ministre des États-Unis au secrétaire d'État aux Affaires extérieures*  
*United States Minister to Secretary of State for External Affairs*

No. 82

Ottawa, March 5, 1928

Sir,

I have the honor to invite your attention to the report of the Joint Board of Engineers on the St. Lawrence Waterway made on November 16, 1926, and in particular to the recommendation therein that compensating works be constructed in the Niagara and St. Clair rivers.

The works proposed in the Niagara River consist of a longitudinal dyke approximately one-half mile in length, connected to the Canadian shore by a rock-filled weir, and supplemented by submerged rock sills in the deeper portion of the river adjacent to the dyke. The estimated cost of these works, which lie in Canadian waters, is \$700,000.

The works proposed in the St. Clair River are a series of thirty-one submerged rock sills, with crests thirty feet below the low water stage of the river, designed to restore levels of Lake Michigan and Lake Huron to the extent of one foot. The estimated cost of these works is \$2,700,000. The sills lie in part in Canadian and in part in American waters.

Provided that the Canadian Government gives its consent to the construction of these works by the United States War Department, and if the Congress of the United States likewise authorizes the undertaking, the plans therefor will be presented to the International Joint Commission, in accordance with the provisions of the Treaty of 1909.

The War Department states, however, that it will be of material assistance to it in presenting the plans to Congress to be assured of the consent of the

Government of Canada to the construction of the proposed works by the United States. I have, therefore, the honor to inquire whether it is possible for you to give me an expression of your views on this subject.

I avail myself etc.

WILLIAM PHILLIPS

311.

*Le secrétaire d'État des États-Unis au ministre aux États-Unis*  
*Secretary of State of United States to Minister in United States*

Washington, March 12, 1928

Sir,

I have the honor to acknowledge your note of January 31, 1928, in which you inform me of the findings and recommendations of the National Advisory Committee in regard to the proposed St. Lawrence waterway improvement.

I note the view of the National Advisory Committee that the question of the advisability of the improvement at the present time depends upon the solution of a number of financial and economic difficulties and upon further consideration of certain of the engineering features and the conclusion of the Committee that it is possible to work out a method by which provision could be made for the construction of the waterway on terms which would be equitable to both countries and would also take adequate account of the factors in the Canadian situation which you have set forth.

The suggestions outlined in your note have received thorough consideration. While the United States is not in complete agreement with the representations made by the Canadian Government as to the relative benefits and ultimate costs to the two countries of the proposed improvement of the St. Lawrence and the division of expense to be borne by each country, it is inclined to regard as an acceptable basis of negotiation a proposal along the general lines suggested in your note: that the prosecution of the improvement of the St. Lawrence waterway be based on the undertaking by the United States of the deepening of the necessary channels through the interconnecting waters of the Great Lakes and the improvement of the international section of the St. Lawrence both for navigation and for power; and the undertaking by Canada of the construction of the waterway in the sections wholly Canadian, that is, the Welland Canal and the works in the St. Lawrence below the international boundary.

Whether the United States expends its share of the cost on the international section and Canada its share on the national sections would seem to be immaterial if, in the negotiations, there is a fair division of expense for a through deep waterway to the Ocean. Of course, in such an arrangement, all sections of the deep waterway should be so constructed as to make them most

suitable for a through system of transportation. This is a detail to which I have no doubt your Government will entirely agree. The use of the waterway should be properly safeguarded by treaties between the two countries.

Concerning the value of the route to the sea to the two countries, I have noted the suggestions made in your note of January thirty-first. I might say that, while it may not be very material to the main issue, the United States has the use of the Panama Canal which is of great benefit to it especially on the Pacific, Atlantic and Gulf coasts. It has also the use of the Gulf of Mexico which reaches a considerable way across the Continent on the South and furnishes valuable water transportation for a large portion of the South-western part of the United States. Both of these waterways exercise a great influence on freight rates. The United States has other harbors on the Atlantic, such as New York served by both railways and the Erie Canal, Philadelphia, Baltimore and Norfolk, which involve a shorter railroad haul from the Great Lakes territory to the Ocean than is enjoyed by Canada. Nevertheless, I feel that the construction of a deep waterway through the St. Lawrence to the Ocean will be of tremendous advantage to most, if not all, of the territory in the northern part of the United States, as well as to the corresponding territory in Canada.

Referring to your suggestions as to the order in which the different works should be undertaken, it would seem to me that this matter will also have to be the subject of negotiation because the works ought to proceed so that all parts of the navigation system would be completed substantially at the same time and the United States ought to have the advantage of its share of the power of the international section without waiting until Canada may be able to sell her power from these works.

Referring to your suggestions as to the order in which the different works note to illustrate the principles of the division of costs and the work to be done by each country, I am in general accord with those principles. The amounts and some of the items would have to be considered and discussed in the negotiations. To illustrate: I am not inclined to the view that it is right to include in the balance sheet the costs of the St. Lawrence and old Welland Canals except so far as they may be of use to the deeper system. These works are understood to be for lighter craft and of little value for the purposes of the works now proposed. These waterways are understood to have served their purpose in economic returns. It would also seem to be necessary to differentiate between the costs that may properly be chargeable to navigation and those to power in general. Those who now or in the future profit by the power should bear their share of the expense. It is understood that the power development will carry itself. To illustrate: under the suggestions you make, the United States will have no proprietary interest in the power on the national section. It would, therefore, seem that as this development is for the benefit of Canada, your Government should be responsible for that expense, and that such expense should take into account the costs to be borne by the respective interests whether the power is actually installed now or later. The amount, therefore, which power on the national section should contribute to



the cost of the improvement should be left open for consideration and subject to determination in the negotiations. All power, of course, developed for joint benefit in the international section should ultimately be paid for as a part of the joint venture. The application of this principle would change the proposed balance sheet considerably. Therefore, if, as you suggest as to this section, the United States is willing to build not only the waterway but the power, it would seem that the United States ought to be permitted to develop its power and use its half, the other half to be used by Canada or not as it should desire.

The United States is agreeable to the proposal that all navigation channels provided in improvements have a minimum depth of 27 feet, the permanent structures having a depth of 30 feet for future expansion. The United States has at present under consideration the deepening of the lake channels to the extent economically justified by the present commerce of the Great Lakes. There is one question that we should like to leave for discussion and that is, whether it would be economical to at once build a new lock and deepen the Soo Canal until such time as the St. Lawrence is nearing completion so that there would be a demand for deeper channels. It is clearly advisable that the large expenditures required for depths in excess of present needs be deferred until the greater depths can be profitably used.

The United States fully recognizes the right of the Dominion of Canada to the ownership and use of the Canadian share of the power which may be developed in the international section of the waterway as well as to all that developed in the national section and it recognizes also that the disposition of the power is purely a domestic question. It recognizes further that this share is an inherent attribute of Canadian sovereignty, irrespective of the agency by which the power may be developed.

The United States regards it a fundamental economic principle that the beneficiaries of power developed in the improvement of the International Section of the St. Lawrence should pay ultimately their fair share of the cost of its production, whether the agency constructing these works be a corporation, a state or province, or a national government. It believes that a practicable means can be found for effecting the fulfillment of this principle in the arrangements made for the improvement of the international section of the river for the joint benefit of navigation and power development, and believes that the negotiations entered into in furtherance of the undertaking of the project should have this end in view.

The large expenditures required for the undertaking are a matter of grave concern to the United States as well as to Canada. It is felt that when the United States embarks on the enterprise all expenditures should be on a sound economic basis.

The United States accepts without reservation the principle that the operation of works in the International Section must be such as will control fluctuations of the outflow from Lake Ontario in such manner as to safeguard all interests on the purely Canadian sections of the river, including especially the Port of Montreal. It regards as acceptable the proposal that the design



and operation of works in the International Section of the river be under joint technical control and assumes that the design of all works on the waterway will comply in general with the plans agreed upon by the Joint Engineering Board as embodying the best principles.

The United States is fully in accord with the view that the advisability of undertaking the improvement at the present time depends on the solution of the financial and economic problems involved. It shares the hope expressed that a solution will be found which will fully safeguard the interests of the two countries and will afford an equitable basis for a division of the cost. It is confident that when these economic principles are determined, the solution of the engineering problems required for their fulfillment will be speedily realized.

I have the honor to suggest, therefore, that the two countries proceed with the appointment of commissioners to discuss jointly the problems presented in your note, and those which I have presented herein with a view to the formulation of a convention appropriate to this subject.

The Government of the United States will be glad to have this discussion extended to the further consideration of any outstanding problems affecting the Great Lakes and the St. Lawrence as suggested in your note.

Accept etc.

FRANK B. KELLOGG

312.

*Le ministre aux États-Unis au secrétaire d'État des États-Unis*

*Minister in United States to Secretary of State of United States*

No. 64

Washington, April 5, 1928

Sir,

I have the honour to refer to your note of March 12th, 1928, on the St. Lawrence Waterway project.

The Secretary of State for External Affairs has noted that while the United States is not in complete agreement with the representations contained in my note Number 30 of January 31st, 1928, as to the relative benefits and ultimate costs to the two countries of the proposed improvement and the division of expenses to be borne by each country, it is inclined to regard as an acceptable basis of negotiation the suggestions of the National Advisory Committee summarized in my note as to the division between Canada and the United States of the tasks involved in the completion of the Deep St. Lawrence Waterway.

The Secretary of State for External Affairs has also noted that the United States agrees that a channel of twenty-seven feet minimum depth would be advisable, accepts the principle that the works in the international section must be so operated as to control fluctuations of the outflow from Lake

Ontario in such manner as to safeguard all interests on the purely Canadian sections, including the port of Montreal, and agrees that the design and operation of the works in the international section should be under joint technical control. It is noted also that the United States would be prepared to have the discussion extended to the consideration of any outstanding problems affecting the Great Lakes and the St. Lawrence watershed, as suggested in my previous note.

In your note under reference you raise some question as to the relative advantage of the waterway to each country and as to the validity of some of the items included on the Canadian side of the balance sheet presented for illustrative purposes by the National Advisory Committee, and refer also to the problems involved in the allocation of costs as between navigation and power. At the present stage it does not appear necessary to discuss these points in detail.

It is further noted that you do not favour the recommendation of the National Advisory Committee, which was an integral feature of its plan and of the division of tasks which it proposed, that the works on the national section should be given priority over the works on the international section in order to permit an agreed solution of the engineering difficulties in this area, and to ensure reasonable absorption of the power developed on the Canadian side. In view of the fact that the market for hydro-electric power in Canada, though large and rapidly expanding, has definite limitations, and that export of power is considered contrary to public policy, it is an essential factor in any plan economically feasible from the Canadian standpoint that, whether through the priority procedure set out by the National Advisory Committee or by some alternative method, the development of power to be utilized in Canada should not outrun the capacity of the Canadian market to absorb and thus to meet the proportion of the costs of the waterway fairly chargeable to power.

The National Advisory Committee laid emphasis on another phase of the situation—the necessity of reconciling the divergent views of the two sections of the Joint Board of Engineers as to the best method of development in the international section of the St. Lawrence. Definite and agreed engineering proposals for the development of this section would appear to be a necessary preliminary to any computation of costs or decision as to the order of construction or division of tasks. His Majesty's Government in Canada has previously referred to the view of the National Advisory Committee, which it shares, that a conference should be held between the Canadian section of the Joint Board and engineers representing the Province of Ontario. It would appear advisable that such a conference should be followed by reconsideration of the engineering problems in the international section by the whole Joint Board.

Reference was made in my previous note to certain constitutional questions affecting the Canadian situation, and to the intention of His Majesty's Government in Canada, in accordance with the wishes of the Governments of

Ontario and Quebec, to seek a solution by reference to the Courts. Steps have since been taken to this end, and it is anticipated that the reference will come before the Supreme Court of Canada at an early date.

It was further indicated in my previous note that, with the constitutional question in process of solution, His Majesty's Government in Canada would be in a position, upon learning whether the Government of the United States considered that the procedure suggested by the National Advisory Committee formed an acceptable basis of negotiation, to consult with the Provinces of Ontario and Quebec upon the aspects of the problem with which they may be concerned. While the acceptance by the United States of this basis of negotiation is attended with important qualifications, yet the position of the Government of the United States has been made sufficiently clear and definite to permit the Government of Canada to take the necessary step thus contemplated and discuss with the provinces the aspects in question. Following this consultation, His Majesty's Government in Canada will be in a position to inform the Government of the United States further of its views on the proposals contained in your note of March 12.

I have etc.

LAURENT BEAUDRY  
for the Minister

313.

*Le secrétaire d'État des États-Unis au ministre aux États-Unis*  
*Secretary of State of United States to Minister in United States*

Washington, April 7, 1928

Sir,

I have the honor to receive your note of April 5, 1928, with reference to the negotiations between the Canadian Government and the United States looking to the construction of the deep St. Lawrence waterway. I note your suggestion that the position of the United States has been made sufficiently clear and definite to permit the Government of Canada to take the necessary steps contemplated and to discuss with the provinces of Ontario and Quebec the aspects in question. I entirely agree with you that there is no reason why at this time the Government of Canada should not take up such discussion with the provinces.

I note also that His Majesty's Government of Canada suggests that it would be advisable that definite and agreed engineering proposals for the development of the International Section would appear to be necessary preliminary to any computation of costs or decision as to the order of construction or division of tasks and that a conference should be held between the Canadian section of the Joint Board and engineers representing the province of Ontario. Further that it would be advisable that such a conference should

be followed by reconsideration of the engineering problems in the International Section by the whole Joint Board. Of course, the Government of the United States fully realizes the desirability of the Canadian Government's consultation with the provinces and with the Canadian section of the Joint Board of Engineers. The United States section of the Joint Board will be prepared at any time to take up with the full Board and discuss and reconsider engineering problems connected with the construction of the International Section. I have the honor to suggest, however, that it would seem as though the entire subject of treaty negotiation need not be postponed until the termination of these discussions and of the reconsideration by the Joint Board of Engineers and that it might be desirable for the negotiations to go on concurrently with the examination of such engineers as their advice and assistance would be necessary. The United States will be prepared to cooperate to the fullest extent with the Canadian Government at any time for the purpose of accomplishing the improvement contemplated.

Accept etc.

FRANK B. KELLOGG

314.

*Le secrétaire d'État aux Affaires extérieures au ministre aux États-Unis*  
*Secretary of State for External Affairs to Minister in United States*

TELEGRAM

Ottawa, May 7, 1928

With reference to Interim Report of Special International Niagara Board on Preservation of Scenic Beauty of Niagara Falls, and feasibility of additional diversion of water, Canadian Government is now in receipt of report from the Board dated May third transmitting and approving with certain qualifications a proposal from the Ontario Hydro-Electric Power Commission and the Niagara Falls Power Company to construct remedial works recommended in the Interim Report. The Board further recommends in order to permit observation of the effects of remedial works increase of diversion for power purposes by amount not exceeding in aggregate daily diversion of ten thousand cubic feet per second on each side of the river during the non-tourist season from October first to March thirty-first. Subject to consideration of certain details the Canadian Government is prepared to accept the recommendations and would be ready at early date to appoint representatives to discuss question further with Government of United States. You are requested to enquire of State Department whether United States Government approves recommendations in general and if so what procedure it considers would be necessary to authorize the remedial works and the temporary diversion of water for experimental purposes which is recommended and whether in case reference to Senate is necessary this could be effected during present session in time to permit commencement of works this summer.



315.

*Le secrétaire d'État aux Affaires extérieures au ministre aux États-Unis**Secretary of State for External Affairs to Minister in United States*

TELEGRAM

Ottawa, May 7, 1928

CONFIDENTIAL. With further reference to our despatch of this date we add for your information that we have been informed from unofficial power sources that Washington considers additional diversion could be effected merely by exchange of notes. In view of precise wording of Article Five of Boundary Waters Treaty it may be held that additional diversion could only be effected, even for temporary and experimental purposes, by a supplementary treaty or convention, but we should like to have view of United States authorities upon this point. Parliament may adjourn May 24th or June 1st so that if Parliamentary resolution of approval were necessary action would be essential very shortly.

316.

*Le ministre aux États-Unis au secrétaire d'État aux Affaires extérieures**Minister in United States to Secretary of State for External Affairs*

DESPATCH 730

Washington, May 9, 1928

Sir,

With reference to your telegrams of May 7th. and in confirmation of the report which was made to you by telephone on May 8th, I have the honour to state that the Government of the United States approves in general the recommendations of the Special International Niagara Board for the construction of remedial works in accordance with the Board's Report of May 3rd. The Solicitor of the Department of State is definitely of the opinion that an additional diversion of water at Niagara Falls, even for temporary and experimental purposes, can only be effected by the conclusion of a treaty or convention supplementary to the Boundary Waters Treaty of 1909. The Department of State is doubtful whether the negotiation and ratification of such a convention can be effected before the end of the present Session of Congress, especially since it is possible that some opposition may develop in the Senate to the authorization of an increased diversion. The Department, however, is prepared to attempt to conclude a convention before Congress rises and points out that to attain this end it will be necessary for the convention to be signed with the least possible delay. I therefore venture to suggest that representatives of the Government of Canada should come to Washington as soon as possible to participate in the negotiation of the convention.

I have etc.

H. H. WRONG  
for the Minister



317.

*Le sous-secrétaire d'État aux Affaires extérieures  
au ministre de l'Intérieur*

*Under-Secretary of State for External Affairs  
to Minister of the Interior*

Ottawa, May 10, 1928

NIAGARA RIVER REMEDIAL WORKS

My dear Mr. Stewart,

Since writing you yesterday on this subject, I have had an opportunity of discussing the matter with Mr. King. I learn that while it was the view of council that an effort should be made to go ahead with the agreement in case it could be effected by an exchange of notes or in other informal fashion, it was not considered desirable to endeavour to proceed by formal treaty for the adjustment of the Niagara frontier or any other piecemeal section of the whole St. Lawrence and Great Lakes system at the present session.

Under these circumstances, I assume it will be necessary to instruct Mr. Massey to inform the State Department that, in view of the necessity of having the proposed agreement embodied in a treaty, it is not considered possible to hold the necessary conference, arrange for the issue of full powers and secure the necessary assent of Parliament, before adjournment, which is expected very shortly.

You may, however, wish to discuss the matter further with the Prime Minister before any further communication to Mr. Massey is authorized.

Yours sincerely,  
O.D. SKELTON

318.

*Le secrétaire d'État aux Affaires extérieures au ministre des États-Unis*  
*Secretary of State for External Affairs to United States Minister*

Ottawa, June 20, 1928

Sir,

I have the honour to acknowledge the receipt of your notes No. 82 of March 5th and No. 94 of March 30th, 1928, setting forth proposals for the construction of certain compensating works in the Niagara and St. Clair Rivers by and at the expense of the United States, and enquiring whether the Canadian Government would agree to these proposals.

The Canadian Government recognizes the value of the proposed works and appreciates the willingness of the Government of the United States to meet

the whole expenditure, including that involved in the work in Canadian waters. The proposals, however, while providing a substantial measure of compensation, so far as navigation is concerned, for diversions or losses of water from the Upper Lakes and Lake Erie, do not provide compensation as regards navigation in the St. Lawrence system below the Niagara River, nor compensation for the loss of power at any point. It is the view of the Government of Canada that any plan for compensating works should cover all the waters and interests affected and should form part of a final settlement of the issues created by the Chicago diversion.

I should be obliged if you could inform me whether a definite appropriation for the purpose in question has yet been made by Congress.

Accept etc.

[W.L. MACKENZIE KING]

319.

*La légation des États-Unis au ministère des Affaires extérieures*  
*United States Legation to Department of External Affairs*

#### NOTE

The Minister of the United States presents his compliments to the Right Honorable the Secretary of State for External Affairs, and has the honor to refer to the Canadian note of May 23, 1928, with reference to plans for an improved channel for navigation purposes from the foot of Lake Ontario to Ogdensburg. It is noted that the Government of Canada is prepared to carry out at its cost the necessary improvement within its territorial waters to provide a channel with a depth of 23 feet below low stage of Lake Ontario, elevation 242.5, and that it estimates the cost of all work in Canadian waters at \$2,029,000 and of the work in American waters at \$2,089,000, a total of \$4,118,000. The Canadian Government asks whether the Government of the United States would be prepared to carry out at its cost the work referred to in the United States waters and to make provision for the necessary additional lighting and aids to navigation.

The Government of the United States has made a study of the advisability and cost of removing shoals in the St. Lawrence River with a view to providing a depth of 22 feet between Ogdensburg, N.Y., and Lake Ontario when Lake Ontario is at low water datum, 244.5 above mean tide. This is the project referred to in previous correspondence with the Canadian Government. Taking into consideration the difference in the elevations of datum planes of the Canadian and American Governments it appears that the depth of channel now proposed by the Canadian Government is about 25 feet as compared with 22 feet proposed by the American Government.

Mr. Phillips desires to explain that in his note of March 5, 1928, the estimate for work in Canadian waters, the total cost of which is estimated at \$114,500, is based upon the removal of 12,726 cubic yards of rock located as follows:

Haskell shoals, 24-1/2 miles above Ogdensburg	—	833 c.y.
Hillcrest shoal, 15-1/2 miles above Ogdensburg	—	7,254
Neeles Eye shoal, 14-1/2 miles above Ogdensburg	—	719
Vicinity of Royal Island, 13-1/2 miles above Ogdensburg	—	3,020
Vicinity of McNair Island shoal, 10/3/4 miles above Ogdensburg	—	900
Total	—	12,726

The Government of the United States expresses the view that there is no present necessity for a greater depth than 22 feet between Lake Ontario and Ogdensburg and that a greater depth should not be considered until the whole question of the improvement of the St. Lawrence and of providing increased depth in the connecting channels of the upper Lakes has been determined.

If the Canadian Government desires to provide a greater depth than 22 feet in Canadian waters, no objection is perceived on the part of the American Government, but it is felt the American Government should proceed with its plans to provide a 22 foot channel in American waters.

A copy of the map showing the American 22 foot project is enclosed.

Ottawa, July 28, 1928

L.V.B.

320.

*Le secrétaire d'État aux Affaires extérieures au chargé d'affaires  
aux États-Unis*

*Secretary of State for External Affairs to Chargé d'Affaires  
in United States*

DESPATCH 384

Ottawa, August 16, 1928

Sir,

I have the honour to refer to your despatch No. 730 of the 9th May, 1928, stating that the Government of the United States approves in general the recommendations of the Special International Niagara Board for the construction of remedial works in accordance with the interim report of the Board presented on May 3rd.

As stated in our telegram of the 7th May, the Canadian Government also is prepared to accept the recommendations, subject to consideration of certain details. The Canadian Government would therefore be prepared to appoint accredited representatives to meet representatives appointed by the

Government of the United States to confer upon the procedure to be followed in the construction of remedial works for the preservation of the scenic beauty of Niagara, and to consider the terms of an arrangement whereby a temporary additional diversion of water for experimental purposes during the winter season may be effected in accordance with the recommendations of the Board.

You are therefore requested to enquire whether it would be satisfactory to the Government of the United States to arrange to participate in a conference of this character towards the end of September.

I have etc.

O. D. SKELTON  
for the Secretary of State  
for External Affairs

321.

*Le chargé d'affaires aux États-Unis au secrétaire d'État  
aux Affaires extérieures*  
*Chargé d'Affaires in United States to Secretary of State  
for External Affairs*

DESPATCH 1250

Washington, August 25, 1928

Sir,

I have the honour to refer to my despatch No. 1234 of August 23rd, 1928, regarding the recommendations of the Special International Niagara Board for the construction of remedial works in accordance with the interim report of the Board, presented on May 3rd.

2. I am now informed by the Department of State that the Government of the United States will have pleasure in participating in a conference with representatives of the Canadian Government to confer upon the procedure to be followed in the construction of remedial works for the preservation of the scenic beauty of the Niagara Falls, and to consider an arrangement for a temporary additional diversion of water from the Niagara River above the Falls, in accordance with the report of the Special International Niagara Board, dated May 3rd, 1928.

3. The Department of State informs me also that any date toward the end of September on which it is convenient to the Canadian Government to send its representatives to Washington will be agreeable to the Government of the United States. It is requested that the information in regard to the date of arrival of the Canadian representatives in Washington be communicated as long in advance as possible.

I have etc.

LAURENT BEAUDRY

322.

*Le secrétaire d'État aux Affaires extérieures au ministre des États-Unis*  
*Secretary of State for External Affairs to United States Minister*

No. 46

Ottawa, October 1, 1928

Sir,

I have the honour to refer to your note of February 24th, 1928, in which it is stated that provision was made in the Rivers and Harbours Act of the United States Congress, approved on January 21st, 1927, for the improvement of the Middle Neebish Channel, St. Mary's River, and that as the necessary operations in connection with this work must be carried on in part in Canadian territory adjacent to the international boundary, the consent of the Canadian Government for the work in Canadian territory is desired by the United States Government.

In bringing this matter to our attention, you have suggested that the Canadian Government give its sanction for the execution by the United States of the dredging involved in the vicinity of Rains Island (Sailors' Encampment), stating further that the dredging proposed is to be carried to a depth of twenty-two feet referred to the usual datum for Lake Huron of 579.6 feet above sea mean level.

I am now in a position to inform you that the desired permission has been granted by the Canadian Government, with the proviso that such permission shall be considered as given without prejudice to the rights of Canada as defined in the Declaration and Decision of the Commissioners under the Sixth Article of the Treaty of Ghent, 1814, signed at Utica the 18th June, 1822, and in the Treaty signed at Washington on the 24th February, 1925, defining and completing the international boundary between the two countries.

Accept etc.

O. D. SKELTON

for the Secretary of State  
for External Affairs

323.

*Le ministère des Affaires extérieures à la légation des États-Unis*  
*Department of External Affairs to United States Legation*

NOTE

The Secretary of State for External Affairs presents his compliments to the Minister of the United States, and, with reference to Mr. Phillips' note of the 28th July last on the subject of the proposed improvement of the channel for navigation from the foot of Lake Ontario to Ogdensburg, has the honour to



state that he has noted with interest the intentions as expressed therein of the United States Government to improve the channel in this stretch of the St. Lawrence River so as to provide a least depth of twenty-two feet when Lake Ontario is at low water datum 244.6 feet above mean tide with a least width of channel of 450 feet.

The proposal of the Canadian Government as set out in Mr. King's note of the 23rd May, 1926, suggested the improvement of the channel in the respective territorial waters of the United States and of Canada so as to leave a depth of 25 feet below Lake Ontario at elevation 244.5 feet, the width of the improved channel being in part 500 feet and in part 600 feet.

Since that time information has become available of the recommendation of the Harbours and Rivers Committee to Congress to provide for the improvement of the inter-connecting channels of the Great Lakes above the foot of Lake Erie so as to leave practically the equivalent in those channels of the depth and width proposed by the Canadian Government to be left in the channel from the foot of Lake Ontario to Ogdensburg and Prescott.

The opening for navigation in 1930 of the Welland Ship Canal will extend the effective range of upper lake steamers to Lake Ontario, and the construction of this Canal by and at the expense of Canada will, it is believed, have a materially favourable effect on transportation costs of the commodities of both countries.

In view of this situation and of the Canadian Government's firm conviction of the desirability of the improvement being along the lines indicated in his note of the 23rd May, the Secretary of State for External Affairs would be grateful if Mr. Phillips would request further consideration by the Government of the United States of the proposals put forward in that note.

Ottawa, November 21, 1928

324.

*Le ministre aux États-Unis au secrétaire d'État des États-Unis*

*Minister in United States to Secretary of State of United States*

No. 180

Washington, December 3, 1928

Sir,

I have the honour to refer to the Department of State's Memorandum dated August 23rd, 1928, and to subsequent informal communications between this Legation and your Department which resulted in the holding of a Conference at the Department of State from November 12th to November 14th last to discuss the procedure to be followed by the Governments of Canada and of the United States in constructing remedial works for the purpose of maintaining the scenic beauty of the Niagara Falls and Rapids. At this Conference, as you are already aware, the representatives of Canada and of the United States agreed upon a Draft Convention and Protocol for

recommendation to the two Governments which would give effect to the proposals made in the reports of the Special International Niagara Board dated December 14th, 1927 and May 3rd, 1928.

I now take pleasure in informing you that His Majesty's Government in Canada is prepared to proceed with the signature of a Convention and Protocol identical in substance with the Draft prepared at this Conference. I have the honour to enclose a copy of the Draft Convention and Protocol in the form approved by His Majesty's Government in Canada. At the Conference it will be recalled that the Canadian representatives stated that they were not empowered to reach final agreement on certain technical matters of formal phraseology; you will notice that in accordance with this statement certain minor alterations of a formal character have been made, but that Articles I and II of the Convention and Article I of the Protocol remain entirely unchanged. I shall be glad if you will be good enough to inform me at an early date whether the Government of the United States is prepared to proceed to the signature of a Convention and Protocol in this form.

I have etc.

VINCENT MASSEY

325.

*Le secrétaire d'État aux Affaires extérieures au ministre aux États-Unis*  
*Secretary of State for External Affairs to Minister in United States*

TELEGRAM

Ottawa, December 31, 1928

IMMEDIATE. We were informed by United States Legation this morning that United States Government is prepared to sign Niagara Treaty as drafted with one minor verbal alteration and that full powers have been issued for Mr. Phillips. Signature will possibly be arranged Wednesday this week. Also advised that no objection is seen to proceeding with Sockeye Salmon Treaty<sup>1</sup> with view to its signature in Washington. You are therefore requested to present draft of Salmon Treaty to State Department and ask formally whether they will be prepared to accept it.

326.

*La légation des États-Unis au ministère des Affaires extérieures*  
*United States Legation to Department of External Affairs*

NOTE

The Minister of the United States of America presents his compliments to the Secretary of State for External Affairs and, with reference to Mr. King's

<sup>1</sup> Voir document 421.

<sup>1</sup> See Document 421.

note of the twenty-first of November, last, on the subject of the proposed improvement of the channel for navigation from the foot of Lake Ontario to Ogdensburg, and with particular reference to Mr. King's desire that further consideration by the Government of the United States be given the proposals put forward in the Canadian note of May twenty-third, has the honor to state that the matter has been brought to the attention of the Acting Secretary of War.

Mr. Phillips desires to inform Mr. King that the Acting Secretary of War adheres to the view expressed by the War Department in June, namely, that the proposal of the Canadian Government be not favorably considered, and states that the situation as it existed at that time is unchanged.

Inasmuch as the reason for the high cost of the improvement is not apparent to the Acting Secretary of War in view of the fact that the International Joint Board of Engineers on the St. Lawrence Waterway reported that a channel of about the same dimensions could be secured at a cost materially less than the estimate of the Canadian Government, Mr. Phillips would be pleased to be furnished plans with detailed estimates and unit costs of the improvement proposed by the Canadian Government.

W. P.

Ottawa, January 29, 1929

327.

*Le ministre aux États-Unis au secrétaire d'État aux Affaires extérieures*  
*Minister in United States to Secretary of State for External Affairs*

DESPATCH 464

Washington, February 27, 1929

Sir,

With reference to despatch Number 425 of February 21st, 1929 enclosing a Senate Resolution providing for hearings by the Senate Committee on Foreign Relations on the subject of the Niagara Convention and Protocol, I have the honour to report that this Resolution was adopted by the Senate on February 26th without debate. The adoption of the Resolution will delay the Ratification of the Convention by the Senate for some months—probably indeed until the first regular Session of the 71st Congress meets in December.

I have etc.

H. H. WRONG  
for the Minister

328.

*Le ministre aux États-Unis au secrétaire d'État des États-Unis*  
*Minister in United States to Secretary of State of United States*

No. 33

Washington, March 1, 1929

Sir,

With reference to your note of April 7th, 1928 concerning the St. Lawrence Waterway, I have the honour to inform you that I have been instructed by the Secretary of State for External Affairs to bring to your attention the developments in the Canadian situation since the receipt of your note.

In my note Number 64 of April 5th, 1928, I informed you that steps were being taken to secure a judicial determination of certain constitutional difficulties as to the respective rights of the federal and provincial governments in Canada regarding water power and navigation. A series of questions was referred to the Supreme Court of Canada in April 1928, and the case was argued in October. The answers of the Court were given on February 5th, 1929. Some of the points at issue were clarified, but the Court found itself unable to give conclusive answers to a number of the more important questions.

Under these circumstances, His Majesty's Government in Canada has concluded that it would not be advisable at present to seek a solution of the question of federal and provincial jurisdiction by further reference to the courts. It has therefore invited the two governments of the provinces of Ontario and Quebec to take part in a conference on the problem of the St. Lawrence development, to be held as soon as possible after the close of the present parliamentary session, at which it is hoped it will be possible to reach a solution by direct agreement.

Reference was made in my note of April 5th, 1929 to the necessity of reconciling the divergent views as to the best method of development in the international rapids section of the St. Lawrence. The Ontario Government has now agreed to co-operate in an endeavour to find a solution of this problem, and engineers have been appointed to represent the province in consultation with the Canadian section of the Joint Board of Engineers.

I have etc.

VINCENT MASSEY

329.

*Le secrétaire d'État aux Affaires extérieures au ministre aux États-Unis*  
*Secretary of State for External Affairs to Minister in United States*

DESPATCH 173

Ottawa, May 25, 1929

Sir,

I have the honour to inform you that a resolution approving the Convention and Protocol signed at Ottawa on the 2nd January, 1929, for the

preservation of Niagara Falls by the construction of remedial works and for the experimental withdrawal of additional water from the Niagara River, has passed the Senate and House of Commons. The Canadian Government will therefore be in a position at any time to advise His Majesty the King to ratify the Convention. It is desired that you should inform the Secretary of State to this effect.

I have etc.

O. D. SKELTON  
for the Secretary of State  
for External Affairs

330.

*Le ministre des États-Unis au secrétaire d'État aux Affaires extérieures*  
*United States Minister to Secretary of State for External Affairs*

No. 394

Ottawa, June 26, 1929

Sir,

I have the honor to call to your attention that by Article VIII of the convention between the United States and Great Britain, signed February 24, 1925, the Government of the United States assumed liability for the cost of flowage easements upon land bordering on the Lake of the Woods in the United States and undertook to provide protective works and measures described in that article of the convention.

By Article X of the convention mentioned the Government of Canada became obliged to pay to the Government of the United States the sum of \$275,000 and undertook to pay in addition one-half of the amount by which the cost of the easements and the protective works and measures exceeds the sum of \$275,000, provided the expenditures be incurred within five years of the coming into force of the convention.

Article XII of the convention provided that it should take effect on the exchange of ratifications. Ratifications were exchanged on July 17, 1925. The convention, therefore, became effective July 17, 1925.

My Government is now in receipt of information from which it appears that the estimated cost of the protective works and measures is \$175,000 and that the estimated cost of flowage easements, based on awards made in 220 cases, will be approximately \$750,000, representing a total expenditure of \$925,000. Deducting from this sum the \$275,000 already paid by the Government of Canada, the cost of the improvements and easements in excess of the amount paid by the Government of Canada would be approximately \$650,000, of which amount the Government of Canada would pay to the Government of the United States one-half, or \$325,000.

It is the opinion of my Government that appeals will result in a reduction of at least one-third of the amount to be paid for flowage easements. If such



a reduction were brought about the total cost of easements would be about \$500,000 and the total expense about \$675,000. The cost of the improvements and of the easements over the amount already paid by the Canadian Government would therefore be about \$400,000 instead of \$650,000, as it would be if appeals were not taken. It is possible that if appeals are taken the additional amount to be paid by the Government of Canada would be \$200,000, instead of \$325,000, which is the estimated additional amount to be paid by Canada if appeals are not taken.

In the estimation of my Government it would seem that the taking of appeals would undoubtedly prolong the proceedings so that final awards could not be secured by July 17, 1930, the date on which the five year period described in Article X of the convention expires. In view of the probable reduction in the cost of easements to be brought about by appealing from awards made in favor of landowners and of the probability that the taking of appeals would result in the prolongation of the proceedings beyond the five year period fixed in Article X of the convention the question arises whether the Canadian Government would be willing to waive or extend the time limit described in that Article.

I therefore venture to enquire whether the Canadian Government is willing to waive or extend the time limit defined in Article X of the convention and, if so, whether the Canadian Government is prepared to conclude a treaty providing for the proposed waiver or extension. I might add that it is important that the attitude of the Canadian Government in regard to waiving or extending the time limit established by Article X of the convention be ascertained at an early date in order that the authorities of the Government of the United States concerned may consider questions which depend on the attitude of the Canadian Government in the premises.

I would be very grateful therefore if you would find it convenient to give me an answer at an early date as to the question concerned.

I avail myself etc.

WILLIAM PHILLIPS

331.

*Le ministre des États-Unis au sous-secrétaire d'État  
aux Affaires extérieures*

*United States Minister to Under-Secretary of State for External Affairs*

Ottawa, June 27, 1929

Dear Dr. Skelton,

You will no doubt remember that on February 28th last we discussed the question of compensating works in the Niagara and St. Clair rivers, a matter which has been before the Department of External Affairs for several months. You were so good as to inform me that the Canadian authorities realize that

the proposed works would be of benefit, but that while appreciating the offer of the United States to pay for the whole undertaking, there was some feeling manifest in Canada that the Dominion Government should pay a part of the expenses. According to my recollection, you also expressed the view that the real difficulty in connection with the proposed works was the Chicago Drainage problem; that is, that if the Chicago complication could be disposed of within a year or two it might not be necessary to proceed with the proposed compensating works, but that if there was no hope for an early settlement perhaps the compensating works should be undertaken now.

I did not fail to communicate to the Department of State these views, and am now in receipt of a communication from the Secretary of State asking me to bring to your attention certain further considerations which were contained in a letter from the Secretary of War to the Secretary of State.

In answer to the reference to the Chicago Drainage complication, it appears that this matter cannot be disposed of within a year or two. Furthermore, the disposal of this complication will not correct the lowering of levels of Lakes Huron and Michigan resulting from enlargements of the naturally contracted sections of the St. Clair River. These enlargements, so I am advised, are principally due to dredging of gravel for commercial purposes under the authority of the Canadian Government.

It is held that the compensating works proposed are engineering structures for the specific purpose of correcting deficiencies in lake levels, whether those deficiencies arise from abstractions of water on the part of Canada or of the United States. Other contributing factors have been canal and power diversions.

It is submitted that as a basis for a complete understanding, both Governments should recognize:

(a) That the proposed compensating works are intended to remedy existing deficiencies in lake levels.

(b) That the factors contributing to the lowering of lake levels are diversions on both sides for power, diversion for sanitary or domestic purposes, diversions for navigation purposes and enlarged cross sections of connecting channels.

(c) A complete cessation of diversion at Chicago would not entirely restore the deficiency in lake levels.

(d) The reduction of diversion at Chicago must be a step by step process extending over a period of years.

(e) the rendition of the Supreme Court decree in the Chicago case, expected in the near future, may set in motion operations for the partial restoration of lake levels. Many years will probably be required to reduce the Chicago diversion to a minimum. The full reduction possible at that point will still leave uncorrected the major portion of the deficiency in lake levels.

(f) In comparison with the total lowering of the lake levels the effect of the Chicago diversion has been exaggerated. Likewise the estimated effect of decreased diversion at Chicago in restoring lake levels is being exaggerated.

(g) Compensating works as proposed will correct deficiencies created under the authority of both Governments, without adjudicating the respective Governmental responsibilities and without incurring the delay incident to such adjudication.

In bringing the above considerations to your attention, I venture to hope that your Government will see fit to consent to the construction of these proposed works by the United States War Department.

Very sincerely yours,

WILLIAM PHILLIPS

332.

*Le secrétaire d'État aux Affaires extérieures au chargé d'affaires des États-Unis*

*Secretary of State for External Affairs to United States*

*Chargé d'Affaires*

No. 87

Ottawa, August 7, 1929

Sir,

I have the honour to refer to Mr. Phillips' memorandum of January 29th, 1929, and to our subsequent conversations regarding the proposed improvement of the channel for navigation from the foot of Lake Ontario to Ogdensburg and Prescott, and to enclose detailed specifications of the project which the Department of Public Works has now under consideration. The present project proposes to provide a minimum width of four hundred and fifty feet and a depth of twenty-five feet grade below elevation 244.5 Lake Ontario, and is estimated to cost \$624,000 for work in Canadian waters. It is estimated that a similar project in United States waters would cost \$946,000 (118,330 cubic yards at \$8).

I should be obliged if you could ascertain whether any further developments have taken place in connection with the United States project for a channel of four hundred and fifty feet width and twenty-two feet depth referred to in Mr. Phillips' note of March 5th, 1928.

Accept etc.

O. D. SKELTON

for the Secretary of State  
for External Affairs

333.

*Le secrétaire d'État aux Affaires extérieures au ministre des États-Unis*  
*Secretary of State for External Affairs to United States Minister*

No. 168

Ottawa, December 4, 1929

Sir,

With reference to my notes No. 87 of the 7th August and No. 95 of the 13th August and to subsequent conversations on the subject of the proposed improvement of the channel for navigation from the foot of Lake Ontario to Ogdensburg and Prescott, which has been delayed pending an appropriation by the United States Congress to provide funds for the improvement in United States waters, I have the honour to request that you will have the goodness to ascertain from your Government whether it will grant permission to the Canadian Government to carry out the improvement of the channel in United States waters on the lines indicated in my note of the 13th August or with such modifications of that scheme as may be decided on, the whole at the expense of Canada, and the United States to be bound by no financial obligation, the matter of pecuniary arrangements being left to their discretion.

It would be appreciated if the desired permission might also cover provision by Canada of any additional aids to navigation required, these to be constructed and maintained at the expense of Canada. It is assumed further that the permission granted by the United States would include permission for the Canadian contractors with their plant, labour, etc. to proceed with the contemplated work, and the granting of such privileges as would permit the entry of Canadian nationals on any necessary conditions in connection with the works in view. The granting of such permission would not be regarded as establishing any precedent and it might be pointed out that similar requests received from the United States Government in the past have been acceded to by Canada. The following cases might be instanced:

Request from United States for permission to improve the channel of the St. Lawrence in the vicinity of Brockville, contained in United States note of September 1, 1899;

Request from United States for permission to establish and maintain Light ships at Lime Kiln Crossing in Detroit River, 1893,—permission granted;

Request from United States for permission to make certain channel improvements in Lower Detroit River; permission granted 1893 to proceed with the work without prejudice to the possessory rights of Canada, also to admit free of duty supplies used in connection with the channel improvement contract;

Request for permission, 1909, to improve Livingstone Channel in Lower Detroit River; granted without prejudice to possessory rights, and on condition that material excavated be disposed of satisfactorily;

Request, Washington despatch 8 February, 1911, for permission to improve St. Croix River, New Brunswick and Maine;—Permission granted, Canada contributing to cost.

Accept etc.

W. H. WALKER

for the Secretary of State  
for External Affairs

334.

*Le ministre aux États-Unis au secrétaire d'État  
aux Affaires extérieures*

*Minister in United States to Secretary of State for External Affairs*

TELEGRAM

Washington, December 17, 1929

Special masters report Chicago diversion case published today. Chief conclusions are first, sewage plants to be completed by nineteen thirty-eight; second, pending completion diversion to be reduced to six thousand five hundred second feet July nineteen thirty and to five thousand on installation controlling works by sanitary district; third, by nineteen thirty-nine diversion to be limited to fifteen hundred second feet excluding water supply unless Congress authorizes more for navigation. Copies report go forward tomorrow.

MASSEY

335.

*Le ministre aux États-Unis au secrétaire d'État aux Affaires extérieures*

*Minister in United States to Secretary of State for External Affairs*

DESPATCH 2

Washington, January 2, 1930

Sir,

With reference to my Despatch No. 2490 of December 23rd, 1929, I have the honour to enclose copies of the text<sup>1</sup> of a permit issued by the Secretary of War to the Sanitary District of Chicago on December 31st, temporarily renewing the permission granted to the Sanitary District to divert water from Lake Michigan. It was decided by the Department of War that an administrative act was necessary to authorize the continuance of the diversion during the interval between the expiration of the previous permit on December 31st and the final decree of the Supreme Court.

2. The new permit is specifically declared to be valid only until the Supreme Court's decree. It permits the diversion until July 1st, 1930, of an

<sup>1</sup> Non reproduites.

<sup>1</sup> Not printed.



annual average flow measured at Lockport of 8,500 cubic second feet. This amount includes the domestic pumpage of the Sanitary District. The diversion authorized in addition to domestic pumpage is set at 7,250 second feet until July 1st and at 6,500 second feet after that date; there is thus an immediate reduction of 1,250 second feet from the diversion authorized in the last permit.

I have etc.

VINCENT MASSEY

336.

*Le ministre aux États-Unis au secrétaire d'État aux Affaires extérieures*  
*Minister in United States to Secretary of State for External Affairs*

TELEGRAM

Washington, February 22, 1930

Your telegram of the 21st February. Have no further information as to situation of Niagara Treaty but I will approach State Department Monday and telegraph what I can learn of present state of this matter. Have not received request for publication of Final Report of Special International Niagara Board.

337.

*Le secrétaire d'État aux Affaires extérieures au ministre aux États-Unis*  
*Secretary of State for External Affairs to Minister in United States*

TELEGRAM

Ottawa, February 24, 1930

IMMEDIATE. Your telegram 22nd February regarding Niagara Convention. Discussions in Foreign Relations Committee give evidence of misunderstanding of terms and objectives of Convention. Objective is not authorization of further developments for power purposes but construction of remedial works to restore and enhance scenic beauty of Falls. To test efficacy of remedial works Convention authorizes additional diversions during winter season enabling International Board to experiment as to effectiveness under varying conditions of flow. Only facilities through which experimental work could be undertaken were those provided by water passages of existing power stations. Power organizations on either side of the river are therefore to be permitted to pass experimental diversions through existing turbines. In exchange for benefit accruing from such additional power thus made available organizations have agreed to construct necessary remedial works under control of Government. No vested interests can be created as Convention stipulates that diversion must be made through existing plants. Diversions are wholly experimental terminating in seven years. Until Convention is ratified nothing can be done to restore scenic values of Falls and until experimental diversion is tried no permanent revision of Niagara provisions of Boundary Waters Treaty is

feasible. Even the limited and intermittent power benefit accruing from utilization of experimental diversion authorized by Convention will be much more advantageous to United States power interests than Canadian inasmuch as steam power stations in United States system will enable United States' power company to pass full amount of diverted water through existing turbines to maximum advantage while Canadian diversion must necessarily fit in with peak load demands of Canadian system. With regard to apparent feeling that there is pressing need for further power supplies on Canadian side, fact is that pressure is less on Canadian side as steps have been taken to provide from Ottawa River sources for Ontario power needs for some years to come.

Above representations are forwarded for your information in connection with State Department discussion. We do not think it desirable to make any representations as to value of Niagara Convention since we believe it is equally advantageous from United States point of view and that duty of endeavouring to facilitate passage of Convention falls upon United States Government. Final consideration noted above regarding other sources Ontario power should be used with caution since while wholly correct it is desired to avoid possibility of giving public impression that any opportunity for increasing Ontario supply of power is not being pressed. Finally any attempt to link up Niagara and St. Lawrence matters likely to impede both objects. Project quite distinct and failure of Niagara Convention to pass Senate will be used in Canada as an argument for futility of attempting treaty with United States on St. Lawrence or any other waterway question.

338.

*Le sous-secrétaire d'État aux Affaires extérieures  
au ministre aux États-Unis*

*Under-Secretary of State for External Affairs to Minister in United States*

Ottawa, March 10, 1930

My dear Mr. Massey,

The conference with Mr. Ferguson and Mr. Taschereau on Saturday was not conclusive, but resulted, I think, in some progress. At least it brought the Federal Government to a more definite statement of its policy than had been the case before.

As Mr. King has already informed you, following the previous conference Messrs. Taschereau and Ferguson submitted a statement which they wished the Canadian Government to make and which they said embodied their understanding of the tentative agreement which had been reached at the conference. The gist of it was the following statement:

I am authorized to state that the federal government recognizes the full proprietary rights of the provinces in the beds and banks of water powers of all navigable rivers, subject of course to control of navigation by the federal authority.

This was obviously an impossible position for the Dominion to take, as it could not waive its constitutional rights in the matter, and a draft letter

setting forth the Dominion position at some length was prepared and forwarded to both gentlemen. Mr. Taschereau was not prepared to accept it, and the further conference was accordingly arranged.

After some preliminary discussion it appeared advisable to give up the endeavour to frame a detailed statement of the division of responsibilities and costs between the two authorities, and to seek a very brief and general statement of policy. A draft was accordingly prepared as representing the view that the Dominion Government was prepared to take. I enclose a copy of this draft.<sup>1</sup> Mr. Ferguson and Mr. Taschereau are quite prepared to accept the first and third provisions, but balked at the second—Mr. Ferguson on the ground that he felt that it compromised the position the province had taken up that water powers created incidental to Dominion navigation works belonged to the province, and Mr. Taschereau really on the ground that it committed Quebec to sanctioning the St. Lawrence Waterway. Mr. King replied that it did not give the Dominion Government any power that it did not have at present, but that on the contrary expressed the willingness of the federal authorities to hand over to the province or a provincial agency surplus water power on precisely the same basis as that which would have obtained if the province had initiated the development as a power scheme.

Mr. Ferguson and Mr. Taschereau both said they would consult Council, and Mr. Ferguson added that he meant to consult counsel as well. I think he is distinctly more favourable than Mr. Taschereau, but it is hoped to have a reply from them both shortly.

You will of course note that the statement is intended to cover water power development in all navigable waters whether boundary or other streams. It makes clear that the Dominion Government does not wish to go into the business of marketing water power, and that it is prepared to allow a province to take the initiative in power development in navigable waters while the Dominion Government reserves the right to initiate works primarily for navigation. I think the division of costs contemplated in the brief statement is very fair. It would mean that if the province initiated a power development, it would bear the cost of the works common to navigation and to power, leaving it to the Dominion to build locks and appurtenant works and it might be in some circumstances, side canals. If the Dominion Government initiated the scheme on a navigation basis, the agency to which the power would be turned over would pay for it on a similar basis. The provinces objected to this, but it is obvious that if the province initiates a scheme, in the first place it will have to undertake all the common works, and second, that if the Dominion initiates it, it could not be expected to accept a less favourable division. I think the statement is one which the Dominion can quite well defend and make public, whether or not it is accepted by the provinces.

The present statement and the preceding correspondence are being regarded as confidential pending a decision by the provinces.

<sup>1</sup> Non reproduit.

<sup>2</sup> Not printed.

I note this morning's *Gazette*, in a report of the conference, indicates that the St. Lawrence project is steadily receding into the background. The *Gazette's* editorial views are wandering into its news columns. There was no such indication at the conference, and the only statements given out by either Mr. King or the Provincial Premiers to the press were confined to a dozen words to the effect that satisfactory progress was being made. Once agreement is reached on the general principle, the question of its application to the St. Lawrence, Ottawa, Nipigon and other developments, as well as to water power development in British Columbia and the Maritimes, can then be considered.

Yours sincerely,  
O. D. SKELTON

339.

*Le chargé d'affaires des États-Unis au secrétaire d'État  
aux Affaires extérieures*

*United States Chargé d'Affaires to Secretary of State for External Affairs*

No. 661

Ottawa, March 15, 1930

Sir,

I have the honor to refer to your note No. 13 of February 24, 1930, and to previous correspondence regarding the improvement of the channel in the St. Lawrence River for navigation from the foot of Lake Ontario to Ogdensburg and Prescott.

Your note No. 168 of December 4, 1929, on this subject inquired whether my Government would grant permission to the Canadian Government to carry out the improvement of the channel in United States waters on the lines indicated in your note of August 13, 1929, or with such modifications of that scheme as might be decided on, the whole at the expense of Canada, the United States to be bound by no financial obligation, the matter of pecuniary arrangements being left to its discretion. Your note of August 13, 1929, recalled the fact that when the Joint Board of Engineers on the St. Lawrence waterway were investigating that problem, they considered the matter of the improvement of the St. Lawrence from Lake Ontario to Ogdensburg and Prescott and reported in favor of a channel 450 feet wide and 25 feet deep below low water of the River when Lake Ontario is at elevation 244.5; your note continued that the Department of Public Works proposes to proceed with the improvement of a channel of these dimensions.

It will be recalled that Mr. Phillips in a conversation with the Prime Minister on November 25th last, in accordance with instructions from my Government pointed out that the United States Army Engineers made a survey of the above-mentioned section of the St. Lawrence river in pursuance



of an Act of Congress and submitted estimates of the cost of removing shoals with a view to providing a 22 foot channel between Lake Ontario and Ogdensburg on the theory that a channel of that depth is sufficient for the requirements of existing shipping. Mr. Phillips informed the Prime Minister that the United States Government is, of course, committed to the construction of the Great Lakes, St. Lawrence seaway which would involve a 27 foot channel in the international section of the River and stands ready to appoint Commissioners to settle jointly details of the project. He added that since one of the main purposes of the Commission is to settle details and costs of improvements in the international section, the United States Government would prefer to have the benefit of the judgment of the Commissioners before undertaking any piecemeal improvements. Mr. Phillips accordingly proposed to the Prime Minister the appointment of Commissioners at the earliest practical moment and stated that if the Commissioners should recommend the immediate improvement of the River between Lake Ontario and Ogdensburg and Prescott, as proposed by the Canadian Government and as a part of the broader project, the President would immediately thereafter recommend to Congress that appropriations be voted to carry out the works in American waters. I have summarized Mr. Phillips' proposals to the Prime Minister in order that the position of my Government with regard to these proposed improvements may be made clear.

As regards your proposal that the Canadian Government be permitted to carry out at its own expense these proposed works immediately in American waters, I may say that my Government will consent to this procedure provided that the operations are conducted under the supervision of the Joint Board of Engineers in order that the Board may coordinate the channel location and dimensions to conform to the program of construction for works necessary to secure through navigation. Since the American section of the Joint Board of Engineers was recently re-constituted on the suggestion of the Canadian Government, for the purpose of conferring again with the Canadian section it would appear that the Joint Board of Engineers could undertake the supervision of these proposed works and their correlation with the general scheme of through navigation without any delay to the construction program with which the Canadian Government desires to proceed.

My Government further agrees that subject to the approval of the Joint Board of Engineers, Canada may provide any additional aids to navigation which may be required, such aids to be constructed and maintained at the expense of Canada. Permission will also be granted for the Canadian contractors with their equipment and labor to proceed with the proposed work in American waters.

I avail myself etc.

B. REATH RIGGS



340.

*Le ministre aux États-Unis au secrétaire d'État  
aux Affaires extérieures*

*Minister in United States to Secretary of State for External Affairs*

TELEGRAM

Washington, April 15, 1930

Supreme Court yesterday gave judgment in Chicago diversion case overruling exceptions of both parties to special masters report of December last and issuing decree following his recommendations.

MASSEY

341.

*Le secrétaire d'État aux Affaires extérieures au chargé d'affaires  
des États-Unis*

*Secretary of State for External Affairs to United States Chargé d'Affaires*

No. 41

Ottawa, April 30, 1930

Sir,

I have the honour to refer to your note No. 661 of March 15th, 1930, reviewing the discussion which has taken place regarding the improvement of the channel of the St. Lawrence River from the foot of Lake Ontario to Prescott and Ogdensburg, and indicating the consent of the United States Government to the proposal that the Canadian Government should carry out certain works in United States waters in this area.

Since the receipt of your note we have been informed that the Rivers and Harbours Bill now before Congress provides for the authorization of the following project: "St. Lawrence River between Ogdensburg, New York, and Lake Ontario, in accordance with the reports submitted in House Document numbered 316, 70th Congress, First Session, except that the depth to be obtained shall be twenty-seven feet". It is further observed that the recommendation of the Chief of Engineers, embodied in the Report on the Bill in question, includes proposals, first, that the shoals in United States waters in this area should be removed to a depth of twenty-two feet, at an estimated cost of \$100,000, and, second, that if the Dominion of Canada is not willing at the present time to bear the cost of the removal of certain shoals in Canadian waters in this area, the United States should assume the cost of removing the shoal in the centre of the channel, estimated at \$65,000.

If the recommendations referred to are approved, it would appear that the United States and Canadian authorities are in agreement as to the desirability of immediate action to improve this portion of the St. Lawrence channel, and that in order to ensure the early completion of this project, each Government would be prepared, if need be, to undertake a portion of the cost of construction in the waters of the other country. Under these circumstances it appears

that the most direct course would be for each Government to proceed with the removal of the shoals in its own waters. The Canadian Government has already under contract the removal of the shoals in the section between McNair Island and Cole Shoal Light, which will ensure a channel in Canadian waters with minimum dimensions of 450 feet in width and 25 feet in depth below Lake Ontario elevation 244.5. The removal by the United States authorities of the Chapman and Middle Ground Woronoco Shoals would, with the work under construction in Canada, provide a reasonably adequate channel from Lake Ontario to Prescott and Ogdensburg. If the Government of the United States prefers that the channel in its waters should immediately be deepened to twenty-seven feet, the Canadian Government would be prepared to extend the undertaking which it now has under way to increase the depth of the channel to twenty-seven feet also—the project in both cases being brought into conformity otherwise with the recommendations of the Joint Board of Engineers regarding this area. In either case the Canadian Government would have pleasure in joining the Government of the United States in requesting the International Joint Board of Engineers to report upon the project to ensure that any work undertaken at the present time would facilitate subsequent development.

Accept etc.

O. D. SKELTON  
for the Secretary of State  
for External Affairs

342.

*Le chargé d'affaires aux États-Unis au secrétaire d'État  
aux Affaires extérieures*  
*Chargé d'Affaires in United States to Secretary of State  
for External Affairs*

DESPATCH 1310

Washington, June 27, 1930

Sir,

I have the honour to report that the United States Secretary of War on June 26th announced that a permit to divert water from Lake Michigan had been issued to the Sanitary District of Chicago. The full text of the announcement by the Secretary of War follows:

The Secretary of War has issued a permit, revocable at the will of the Secretary of War, to the Sanitary District of Chicago for the diversion of water from Lake Michigan in accordance with the decree of the Supreme Court of the United States entered April 21, 1930.

The permit was granted under the following conditions:

1. That there shall be no unreasonable interference with navigation by the work herein authorized.

2. That, if inspections or any other operations by the United States are necessary in the interests of navigation, all expenses connected therewith shall be borne by the permittee.

3. That no attempt shall be made by the permittee to forbid the full and free use by the public of any navigable waters of the United States.

4. That action taken by the Sanitary District for the reduction of sewage discharge into the Chicago River shall be under the supervision of the United States District Engineer at Chicago, and the diversion of water from Lake Michigan hereby authorized, shall also be under his supervision, and under his direct control in times of flood on the Illinois and Des Plaines rivers.

I have etc.

MERCHANT MAHONEY

343.

*Le secrétaire d'État aux Affaires extérieures au chargé d'affaires  
des États-Unis*

*Secretary of State for External Affairs to United States Chargé d'Affaires*

No. 79

Ottawa, June 27, 1930

Sir,

I have the honour to refer to the note, dated the 26th June, 1929, in respect to the Lake of the Woods Convention, enquiring whether the Canadian Government would be willing to waive or extend the five-year time limit, defined in Article X of the Convention, within which the expenditures to be made in the United States and provided for in the Convention should be incurred. The object of the request was to permit appeals to be taken from the excessive awards which had been made by the appraisers in the condemnation proceedings instituted by the United States Government in the Minnesota courts. It was the opinion of your Government that appeals would result in a reduction of at least one-third of the amount to be paid for flowage easements.

Your attention is also directed to my answering note No. 120, dated the 24th September, 1929 in which the Canadian Government agreed to interpret Article X of the Convention in such a manner that all proceedings instituted and pending before the 17th July, 1930, should be considered as expenditures incurred within the five-year period, notwithstanding that the proceedings might not be completed within the five-year period, and notwithstanding that the amounts to be paid for the flowage easements might not have been finally determined and paid within the five-year period. The object of agreeing to this interpretation was to enable the appeals to be taken as desired by your Government, and it was made upon the following understanding, as set forth in my note:

In agreeing to this interpretation the Canadian Government has in mind recent developments which indicate that there is every reasonable expectation that the total final cost will be substantially less than the total cost as estimated in your

note of June 26. The Canadian Government would feel justified in assuming that your estimate of the total cost to Canada included the cost of all flowage easements in respect to which proceedings will have been instituted within the five-year period. It is understood that you cannot be expected to assure us that the estimate cannot possibly be exceeded, but the Canadian Government would feel justified in assuming that the proposed procedure by way of appeal could not have the effect of augmenting the total excess cost, and that there is a reasonable expectation that it will lead to a substantial reduction.

In accordance with the above understandings, as embodied in the two notes, condemnation proceedings were continued and Counsel for the Canadian Government co-operated with representatives of the United States Government, acting under Article II of the Protocol accompanying the Lake of the Woods Convention. At an early conference between representatives of the two Governments and of the landowners, it was orally agreed that ten test cases should be selected, five being chosen by the land owners, and five by the two Governments acting in agreement: the trial of which should be proceeded with for the purpose of establishing certain legal principles which could be applied in the settlement of the remainder. Accordingly, from some six hundred claims, ten test cases were selected so as to exemplify basic principles in respect to which different contentions might be brought forward by the landowners and the Governments, respectively. The trial of these cases was proceeded with November 7th to 29th at St. Paul, Minnesota, before two Federal District Judges, without a jury: this procedure being adopted after agreement with the landowners. The Governments presented lengthy briefs and oral arguments to the Court in support of their views. There was complete accord between Counsel for the Canadian Government and the representatives of the United States Government. The landowners also presented lengthy arguments in support of their contentions.

Up to the present time no decision in the ten test cases has been handed down by the Court.

On the 15th May, 1930, Counsel for the Canadian Government was notified that it had been decided to proceed with the trial of twenty new cases on the 17th June. In view of the understanding which had been reached that the ten test cases should be carried through to establish basic principles upon which the balance of the claims could be determined, and in view of the fact that Canada had not been consulted in respect to bringing on the new cases, and furthermore, that the time provided was not sufficient for the preparation of briefs and arguments, Counsel for the Canadian Government, under instructions, entered a strong protest against the initiation of any new trials. The Court agreed to postpone the trial of the new cases until September. In registering the above protest Counsel had the full support of the representatives of the United States Government.

The Lake of the Woods Convention was entered into by Canada upon the basis of the report and recommendation of the International Joint Commission, which valued the lands over which easements were being secured at \$164,000. The valuation has been raised by the awards of the appraisers in the present Court proceedings, which indicate that the awards for flowage

easements alone will amount to more than \$433,000. The awards are being appealed, and during the proceedings in the ten test cases, Counsel for the landowners had claimed compensation upon a basis which would raise the total awards to the neighbourhood of \$8,000,000.

It was the understanding of the Canadian Government that the proceedings followed pursuant to the two notes already referred to could not possibly have the effect of increasing the awards, and I am somewhat disturbed by the suggestions of increasing the awards that have been made in the proceedings that have been taken. It is quite clear that the Canadian Government would never have agreed to the interpretation extending the time, had there been any possibility of the awards being increased by reason of the appeals.

It would appear to be desirable that the proposed trials of the twenty new cases should be deferred until the final determination of the ten test cases. Otherwise the whole of the proceedings in respect to the ten test cases would be fruitless. I appreciate that your Government is primarily interested in the carriage of these proceedings and that Counsel for the Canadian Government, acting under Article II of the Protocol, is co-operating with the representatives of your Government, rather than taking the initiative in the matter. Accordingly, it may be suggested that this matter should be brought to the attention of your Government, in order that appropriate steps might be taken, in accordance with your own procedure and practice, to bring to the attention of the Court the reasons for deferring consideration of any cases, other than the ten test cases, at the present time.

Accept etc.

O. D. SKELTON  
for the Secretary of State  
for External Affairs

344.

*Le sous-secrétaire d'État aux Affaires extérieures au chargé d'affaires  
aux États-Unis*

*Under-Secretary of State for External Affairs to Chargé d'Affaires  
in United States*

Ottawa, July 4, 1930

My dear Mr. Mahoney,

I have your letter of July 2nd, confirming your telephone conversation indicating that no action will be taken by the Senate on the Halibut, Salmon and Niagara Treaties in the present session, and that the prospects are against any action in the forthcoming extra session. I can quite understand that the



State Department does not wish to jeopardize the passing of the Naval Armament Treaty by complicating the agenda of the extra session, and it may be that the mood developed by the discussion would not be conducive to a favourable outcome if the three Canadian treaties were brought up. I should be glad, however, if you would keep in close touch with the matter, and advise us, as it is much to be desired that action should be taken on all three treaties as soon as possible.

Yours sincerely,

O.D. SKELTON

345.

*Le secrétaire d'État des États-Unis au chargé d'affaires aux États-Unis*  
*Secretary of State of United States to Chargé d'Affaires in United States*

Washington, July 9, 1930

Sir,

The receipt is acknowledged, with thanks, of your note No. 130, of June 28, 1930, enclosing a copy of the report of the Canadian members of the Joint Board of Engineers and of engineers representing the Province of Ontario, on the proposed development of the international rapids section of the St. Lawrence River.

Copies of your note and of its enclosure have been forwarded to the appropriate authorities of this Government for their consideration.

Your note states that the Canadian members of the Joint Board of Engineers will be prepared to participate, at the earliest convenient opportunity, in further consideration of the engineering problems in this section of the St. Lawrence River. In this regard may I point out that the Chargé d'Affaires of the United States Legation at Ottawa was instructed on January 22 last to inform the Canadian Government that the American members of the Joint Board of Engineers would be prepared to meet with the Canadian engineers at any time to deal with the St. Lawrence waterway. It was added that it would be desirable if several days notice of the proposed meeting could be given. It is suggested that your Government indicate a date on which it would be convenient for the Joint Board of Engineers to convene. It might be desirable to save time for the Chairman of the Canadian section of the Board to communicate direct with Colonel Harley B. Ferguson, Office of the Chief of Engineers, United States War Department, the Chairman of the American section, Washington, D.C., on this subject.

Accept etc.

W. R. CASTLE  
for the Secretary of State

346.

*Le sous-secrétaire d'État aux Affaires extérieures au chargé d'affaires  
aux États-Unis*

*Under-Secretary of State for External Affairs to Chargé d'Affaires  
in United States*

TELEGRAM

Ottawa, July 10, 1930

PERSONAL. Your letter June 30th regarding St. Lawrence improvement from Lake Ontario to Prescott and Ogdensburg received. We requested United States Legation yesterday to enquire whether in view of the fact that Congress had now definitely approved project for improvement of channel in United States waters, the United States Government was now in a position to undertake during the present season removal of shoals in United States waters, additional improvement required being completed at a later date. Note ends. You are requested to take up matter also with State Department after forwarding Report on International Rapids Section of the St. Lawrence. You should point out that removal of shoals in Canadian section is nearly completed and enquire whether beginning could not be made immediately on the United States side. If United States authorities suggest that matter should be referred to the International Joint Board of Engineers before taking any action, you should reply that we understand that project now authorized in United States coincides substantially with recommendations already made by Joint Board and that if any question as to later stages of work in this section arises, Canadian Government would be pleased to join in requesting Joint Board to report further on development in both United States and Canadian waters in this section to twenty-seven foot depth. In view, however, of the lateness of the season and the fact that United States engineers have already investigated and approved project, it is hoped that it will be possible to arrange immediate beginning without waiting for further conference.

347.

*Le chargé d'affaires aux États-Unis au sous-secrétaire d'État  
aux Affaires extérieures*

*Chargé d'Affaires in United States to Under-Secretary of State  
for External Affairs*

CONFIDENTIAL

Washington, July 17, 1930

My dear Dr. Skelton,

With reference to your telegram of July 10th, and my reply of the 12th instant, regarding the St. Lawrence project for the improvement of the Lake Ontario-Ogdensburg channel, I called at the State Department on the morning of the 12th and found that Mr. Hickerson had received, by telegraph, the note which you addressed to the United States Legation at Ottawa on the 9th

instant. He told me that he anticipated a report from the Secretary of War about the middle of this week, intimating that such a request had actually gone to the War Department.

I told Mr. Hickerson quite frankly that I was personally familiar with the attitude of both the Chief of Engineers and his assistant in charge of the River and Harbour Section, in so far as the beginning of operations on the project this season is concerned, and that they would most likely return a negative report to the State Department unless some pressure was brought to bear upon the War Department. The intimation, of course, was that the pressure might come from the White House.

Mr. Castle was absent in Chicago (Mr. Cotton is on leave until September, so Castle will be in charge for the next six weeks) but returned on the morning of the 13th, and spent the day with the President at Rapidan in Virginia.

Today, I again discussed the subject with Mr. Hickerson, and he informed me that it was finally decided not to allow the Chief of Engineers to report upon the project until the State Department had found a means of supplying money for the work, or had exhausted efforts to do so. Moreover, Mr. Hickerson said that Mr. Castle had spoken to the President about it on Sunday, and that Mr. Hoover favoured operations this season.

Meantime, the State Department is endeavouring to locate a source from which the money can be had.

I am convinced that the State Department is now putting forth its best efforts to bring about the desired action in this matter.

Yours sincerely,

M. M. MAHONEY

348.

*Le chargé d'affaires aux États-Unis au sous-secrétaire d'État  
aux Affaires extérieures*

*Chargé d'Affaires in United States to Under-Secretary of State  
for External Affairs*

CONFIDENTIAL

Washington, August 12, 1930

My dear Dr. Skelton,

With reference to Mr Mahoney's confidential letter of July 17th concerning the improvement of the St. Lawrence channel above Ogdensburg, I enquired today of Mr. Hickerson of the State Department whether there had been any recent developments. He told me that the matter had not yet been submitted to the War Department, as the State Department considered that merely to refer the question to the War Department would only result in a reply that no funds could be made available until the passage of the next Appropriation Bill. He said that the matter was still before the President, and that Mr. Castle hoped that the President would bring pressure to bear on the

War Department in order to release a sufficient sum of money (perhaps \$200,000), which has been allotted to other projects, to enable the work to be started during this season.

There seems to have been no progress since the middle of July. I had thought of seeing Mr. Castle immediately and emphasizing the necessity of an early start; but it occurs to me that the delay in the opening of the Welland Canal, which now seems certain, together with the possible delay in the operations on our side caused by the accident near Brockville last month, may have diminished the importance from our point of view of an immediate start on the United States side. If you still wish the matter to be pressed, I shall take it up with Mr. Castle as soon as I hear from you.

Yours sincerely,  
H. H. WRONG

349.

*Le ministre des États-Unis au secrétaire d'État aux Affaires extérieures*  
*United States Minister to Secretary of State for External Affairs*

No. 2

Ottawa, September 2, 1930

Sir,

I have the honor to refer to previous correspondence exchanged between the Government of Canada and the Government of the United States on the subject of the proposed St. Lawrence seaway.

In pursuance of instructions from the President, I desire to reiterate that the Government of the United States stands ready to proceed with this proposed development at the earliest possible date. I have been directed to enquire whether the Canadian Government now finds itself in a position to appoint commissioners to discuss jointly with commissioners of the United States the details of the seaway, and to formulate a treaty appropriate to the purpose.

I avail myself etc.  
HANFORD MACNIDER

350.

*Le secrétaire d'État aux Affaires extérieures au ministre des États-Unis*  
*Secretary of State for External Affairs to United States Minister*

No. 132

Ottawa, September 10, 1930

Sir,

I have the honour to acknowledge your note of September 2nd indicating the readiness of the Government of the United States to proceed with the development of the proposed St. Lawrence waterway at an early date.

The Canadian Government has given consideration to some phases of the St. Lawrence waterway question, but in view of the fact that the Parliament of Canada is now in session, and that the opening of the Imperial Conference has been set for September 30th, it will not be possible to deal with the question in a comprehensive manner at the present moment. I propose, however, to go into the matter immediately upon my return from the Conference in November, and following this examination I shall communicate with you further.

Accept etc.

R. B. BENNETT

PARTIE 2 / PART 2

CONTREBANDE  
SMUGGLING

351.

*L'ambassadeur britannique aux États-Unis au secrétaire d'État  
des États-Unis*

*British Ambassador in United States to Secretary of State  
of United States*

No. 199

Washington, March 22, 1926

IMMEDIATE

Sir,

With reference to my note No. 128 of February 23rd last regarding the case of the Canadian schooner *W. H. Eastwood*, I have the honour, at the request of His Excellency The Governor General of Canada, to transmit herewith in original a protest<sup>1</sup> against the action of the United States cutter *Seneca* in firing upon the *Eastwood* which has been addressed to the Canadian Secretary of State for External Affairs by the owner of the vessel. A certified duplicate of the Marine Protest of the master and crew of the *Eastwood* is also enclosed, together with solemn declarations of certain members of the crew, the report of a survey of the ship made at Lunenburg on February 22nd last, and photographs showing a portion of the damage caused by the firing. It will be observed that the owner has in his possession fragments of shell, machine gun bullets and fuses found by the crew of the *Eastwood* which are available as evidence should their production be required.

In placing the above mentioned documents at your disposal I have the honour to express the hope that the evidence which they supply may facilitate

<sup>1</sup> Non reproduite.

<sup>1</sup> Not printed.



the enquiries of the competent United States authorities into the circumstances attending this unfortunate incident and that I may be notified of the results of their investigations into the matter at the earliest possible moment.

I have etc.

H. G. CHILTON  
for the Ambassador

352.

*L'ambassadeur britannique aux États-Unis au Gouverneur général*  
*British Ambassador in United States to Governor General*

DESPATCH 178

Washington, April 13, 1926

My Lord,

With reference to Your Excellency's despatch No. 77 of March 25th, and to previous correspondence regarding the case of the British schooner *W. H. Eastwood*, I have the honour to transmit to you herewith copy of a note from the United States Government from which it will be observed that the Officer Commanding the United States Revenue cutter *Seneca* denies having fired upon the *Eastwood* on February 15th last. It will further be observed that the United States Government have furnished me with a memorandum in the form of a chronological account of the activities of the *W. H. Eastwood* during the years 1925 and 1926 indicating that this vessel has long been engaged in the illicit liquor trade.

From the information in my possession, however, which is supported by photographs, and which has been communicated to the United States Government, there would seem to be no doubt that the *Eastwood* received considerable damage from small high explosive shells and machine gun bullets emanating from the *Seneca* and, in the circumstances, I am inclined to think that the Officer Commanding the latter vessel deliberately indulged in target practice in such close proximity to the *Eastwood* as to endanger the lives and property of those on board the schooner as well as the safety of the vessel herself. In this connection it will be seen that the enclosed note does not say that no target practice was indulged in by the *Seneca* on February 15th. I have not thought it advisable, therefore, to allow the incident to be closed by the Department of State's reply to my representations and I have accordingly addressed a further note to Mr. Kellogg, copy of which is enclosed herein, and the terms of which I trust will meet with your approval.

A similar despatch is being addressed to His Majesty's Principal Secretary of State for Foreign Affairs.

I have etc.

ESME HOWARD

## [PIÈCE JOINTE 1/ENCLOSURE 1]

*Le secrétaire d'État des États-Unis à l'ambassadeur britannique  
aux États-Unis*

*Secretary of State of United States to British Ambassador  
in United States*

Excellency,

Washington, April 9, 1926

Referring to your note No. 128, dated February 23, 1926, requesting information concerning the authenticity of press reports to the effect that the British vessel *Eastwood* of Lunenburg, Nova Scotia, had been fired upon on February 15 by the revenue cutter *Seneca* of the United States Coast Guard, while the latter was engaged in target practice, I have the honor to state that a communication dated March 22, 1926, has now been received from the appropriate authority of this Government, in which it is stated that inquiry was made of the commanding officer of the *Seneca*, and under date of March 18, 1926, he advises that the British vessel *Eastwood* was not fired upon by the *Seneca*. It is further stated that the commanding officer of the *Seneca*, Commander Eugene Blake, Junior, United States Coast Guard, has been a commissioned officer of the Coast Guard for more than twenty-seven years.

Reference is made to the fact that the British vessel *Eastwood* is a notorious rum runner that has been engaged for a long time, almost continuously and exclusively, in endeavoring illegally to land liquors on the north Atlantic coast of the United States. There is transmitted herewith, for your information, a memorandum, furnished to this Department, giving a chronological account of the operations of the *Eastwood* during the years 1925 and 1926.

Accept etc.

JOSEPH C. GREW  
for the Secretary of State

## [PIÈCE JOINTE 2/ENCLOSURE 2]

*L'ambassadeur britannique aux États-Unis au secrétaire d'État  
des États-Unis*

*British Ambassador in United States to Secretary of State  
of United States*

No. 261

Washington, April 13, 1926

Sir,

I have the honour to acknowledge the receipt of your note No. 102/16/201 of the 9th instant regarding the case of the British sailing ship *W. H. Eastwood* and note the statement of the Commander of the United States Revenue cutter *Seneca* that the latter vessel did not fire upon the *Eastwood* on February 15th last, as had been alleged by certain statements which appeared some days later in the public press.

From the information received by the Government of Canada, which is supported by photographs and which was communicated to the State Department in my note No. 199 of March 22nd, there would, however, appear to be no doubt that the *Eastwood* was damaged by small high-explosive shells and machine-gun bullets, and in the circumstances it has occurred to me that the Officer Commanding the United States cutter *Seneca* may, in the course of target practice, have manoeuvred too close to the *Eastwood* to permit of that vessel remaining entirely outside the danger zone. In the light of the above, I should be most grateful to learn whether the *Seneca* did in fact engage in target practice on February 15th last and, if so, whether this practice took place on the high seas in the vicinity of the *Eastwood*.

I would venture further to observe that the fact of the *Eastwood* having been previously engaged in rum-running would hardly appear to be germane to the question at issue, which is whether or not the projectiles by which she seems undoubtedly to have been struck could or could not have been fired by the *Seneca*, to the danger of the lives of those on board the *Eastwood*.

I have etc.

ESME HOWARD

353.

*Le ministre des Douanes et de l'Accise au Premier ministre*  
*Minister of Customs and Excise to Prime Minister*

Ottawa, July 9, 1926

My dear Premier,

I enclose a letter from Colonel John G. Foster, Consul General for the United States, as the matter referred to therein is one which I presume should be dealt with by the Department of External Affairs.

I wholly concur in the suggestion that the Treaty should be amended. For some unknown reason the latter half of Article 2 would seem to be contrary to the first part of the same Article, and the members of the Committee, including Mr. Bennett, were of the opinion that the Treaty, as it now stands, was exceedingly weak in this respect.

I may say that my Department is now refusing clearance to vessels laden with liquor for the United States, the instructions having been based upon precisely the same grounds that refusal would be given to the clearance of a vessel laden with narcotic drugs or other prohibited goods.

However, I concur in the suggestion that steps should be taken to amend the Treaty, a copy of which is hereto attached.<sup>1</sup>

Yours sincerely,

H. H. STEVENS

<sup>1</sup> Non reproduit.

<sup>1</sup> Not printed.

[PIÈCE JOINTE/ENCLOSURE]

*Le consul général des États-Unis au ministre  
des Douanes et de l'Accise*

*United States Consul General to Minister of Customs and Excise*

Ottawa, July 7, 1926

Dear Mr Stevens,

Referring to our brief conversation at the Rideau Club, in which you suggested that I bring again to your attention the enquiry of the Department as to "whether action may be expected by Canadian Government so that clearances will be refused to vessels carrying liquor to ports in the United States", so that you could reply to the matter more fully than in our brief conversation.

May I say, in this connection, that the United States has, for some time past, been seeking to obtain a more effective check upon exports of liquor from Canada and has proposed to the Canadian Government that the present treaty be amended so as to include a provision for the refusal of clearances to vessels carrying liquor for the purpose of violating the United States laws. In the report of the Parliamentary Customs Investigation Committee, there is a recommendation that, if existing legislation is insufficient to prevent illegal export of intoxicating liquors to the United States, further legislation be enacted for this purpose. I have already informed the Department of the adoption of this recommendation, but I also stated that no new legislation on this subject had been enacted.

I have to-day telegraphed to the Department that, in our conversation, you had assured me of your desire and intention to observe, in the fullest manner, the spirit of the treaty against smuggling and the recommendations of the Customs Committee as to clearances as far as possible. I shall be very glad to transmit to the Department any further statement you may feel at liberty to make with reference to this subject.

Very sincerely yours,

JOHN G. FOSTER

354.

*Le sous-secrétaire d'État adjoint aux Affaires extérieures  
au secrétaire, Gouverneur général*

*Assistant Under-Secretary of State for External Affairs  
to Secretary, Governor General*

Ottawa, July 31, 1926

Sir,

With reference to the despatch to His Excellency from His Majesty's Ambassador at Washington, No. 178 of April 13th last, regarding the case of

the Schooner *W. H. Eastwood*, I have the honour to state that at the suggestion of the solicitor for the owners of the vessel an examination of the fragments of the shells and machine gun bullets found in the *Eastwood* was made by experts in the Department of National Defence, in order that evidence might be provided in support of the story told by the Master regarding the attack on the vessel by the *Seneca*. This report, which is herewith enclosed<sup>1</sup>, shows that the fragments were not of such a character as would have been fired from any gun now mounted in any Imperial or Canadian naval vessel in commission or from any gun supplied by the Canadian Naval authorities to any Canadian fishery protection vessel or Customs cruiser, and information has been obtained supplementary of this report from the Departments of Marine and Fisheries, and of Customs and Excise to the effect that no guns are mounted in any Canadian fisheries protection vessel or Customs cruiser other than those furnished by the Canadian Naval authorities, with the exception of two six-pounder guns installed on the Customs cruiser *Margaret* in 1914, the ammunition for which was obtained from the Canadian Naval authorities.

While it appears that His Majesty's Ambassador is satisfied that the shells and bullets were fired by the *Seneca*, yet as a denial has been made by her Commanding Officer and apparently accepted by the United States Government, I am to request that His Excellency may be humbly moved to forward the report to Sir Esme Howard, supplementing it with the information furnished by the Department of Marine and Fisheries, and of Customs and Excise, and to suggest, in case no satisfactory reply has been received to his note to Mr. Secretary Kellogg of 13 April last, that the report be brought to the attention of the United States authorities as of service in determining the facts of the case.

I have etc.

W. H. WALKER

355.

*L'ambassadeur britannique aux États-Unis au Gouverneur général*  
*British Ambassador in United States to Governor General*

DESPATCH 418

Manchester, August 9, 1926

URGENT

My Lord,

I have the honour to acknowledge the receipt of Your Excellency's despatch No. 152 and enclosures of the 3rd instant with further reference to

<sup>1</sup> Non reproduit.

<sup>1</sup> Not printed.



the *Eastwood* case and to transmit to you herewith copy of a note from the United States Government replying to the additional enquiries which I made of the Department of State in my communication No. 261 of April 13th last, copy of which was enclosed in my despatch No. 178 of that date.

It will be seen that in the enclosed note the Secretary of State admits that the Coast Guard Cutter *Seneca* indulged in target practice on February 15th last on the high seas in the vicinity of the *Eastwood*. Your excellency will agree, however, that the remainder of the note does not make very satisfactory reading and indeed displays a dangerous confusion of thought on the part of the Department of State, who do not appear to appreciate the difference between a courteous protest against a clearly indefensible act by the United States Revenue authorities and a general support of a liquor smuggling vessel against which lawful action has been taken by the preventative forces.

While, therefore, I am of opinion that no useful purpose would be served by endeavouring to extract from the United States Government a definite admission that the Commander of the *Seneca* was guilty of an indiscretion in this case and while I consider that in the circumstances it is advisable to accept the Secretary of State's declaration that the said officer did not actually fire at the *Eastwood*, I feel that the United States Government should be made aware of the reasons why this incident has formed the subject of careful enquiries by His Majesty's Embassy.

In these circumstances, I propose, subject to the approval of His Majesty's Governments in Canada and Great Britain to hand Mr. Kellogg an aide-mémoire, the draft of which is enclosed for the information of the Dominion authorities, when I call upon him in Washington on August 21st, which I am confident will make the situation quite clear. I have communicated the substance of this aide-mémoire to His Majesty's Government by cable and have requested an early reply. I am leaving for Washington on the 15th instant on my way to Roanoke Island, North Carolina, my interview with the Secretary of State being arranged for when I pass through the capital on my return journey.

I request that Your Excellency will move the interested Dominion authorities to *accord urgent consideration* to this despatch and its enclosures with a view to my being furnished, by telegraph, *if possible not later than the 14th instant*, with their approval or otherwise of my proposed action.

I would add that during my journey to Roanoke I am to travel for two days in a Coast Guard Cutter in company of Admiral Billard, head of the United States Coast Guard Service, with whom it is my intention to discuss this case on the lines of the enclosed aide-mémoire.

I have etc.

H. W. BROOKS  
for the Ambassador

## [PIÈCE JOINTE 1/ENCLOSURE 1]

*Le secrétaire d'État des États-Unis à l'ambassadeur britannique  
aux États-Unis*

*Secretary of State of United States to British Ambassador  
in United States*

Washington, August 2, 1926

Excellency,

I have the honor to refer to your note No. 261, dated April 13, 1926, concerning the case of the British sailing ship *W. H. Eastwood*. You inquire whether the United States Coast Guard Cutter *Seneca* did engage in target practice on February 15, 1926, and, if so, whether this practice took place on the high seas in the vicinity of the *W. H. Eastwood*. I have received a communication from the Treasury Department which reads in part as follows:

It appears that on February 15, 1926, the *Seneca* was on patrol duty in the vicinity of the *Eastwood*, as the *Eastwood* is a notorious rum-runner that had been engaged for a long time, almost continuously and exclusively, in endeavouring illegally to land liquors on the north Atlantic coast of the United States. On this day the *Seneca* engaged in target practice, an anchored target being used.

It appears that the *Seneca* was on the high seas at the time in question.

There would seem to be nothing unusual in the fact that this practice took place on the high seas, particularly in the light of the further fact, that, as appears from the Marine Protest of the master and crew of the *Eastwood*, which was enclosed with your note No. 199, dated March 22, 1926, the *Seneca* gave the warnings customarily given by vessels engaged in target practice. It seems fair to assume that if the Commanding Officer of the *Seneca* had intended deliberately and maliciously to fire upon the *W. H. Eastwood*, he would not have given the mentioned signals.

The matter appears therefore to resolve itself into a question of the credibility of the witnesses. The record of the smuggling operations of the *W. H. Eastwood* set forth in this Department's note of April 9, 1926, indicates that the persons in charge of this vessel made false declarations on several occasions regarding the destination of the *W. H. Eastwood* when it cleared from Canadian ports. On the other hand, the Commanding Officer of the *Seneca* has been a commissioned officer of the United States Coast Guard for more than twenty-seven years, during which time no charge appears to have been made against him. In view of these circumstance, this Government feels that the statements which have been made by the Commanding Officer of the *Seneca* that his vessel did not fire on the *W. H. Eastwood*, are entitled to the highest consideration. It is a well-known fact that vessels such as the *W. H. Eastwood* have been fired on by other vessels (known as hijackers) engaged in like unlawful activities. I refer in this relation to the cases of the *Mulhouse*, the *Veronica*, the *Francisca*, and the *Dorothy M. Smart*.

With respect to the observations in the last paragraph of your note of April 13, 1926, that the fact that the *W. H. Eastwood* had previously engaged in rum-running would hardly appear to be germane to the question at issue, I may state that it was desired to invite your consideration of the question whether persons who have been engaged in open and deliberate violation of the laws of a friendly State as a business and for financial gain over a long period of time are entitled to the interposition of their Governments for alleged or fancied infringement of their so-called rights.

Accept etc.

FRANK B. KELLOGG

[PIÈCE JOINTE 2/ ENCLOSURE 2]

*Projet d'aide-mémoire*

*Draft Aide-Mémoire*

With reference to the note of the Secretary of State of August 2nd, respecting the case of the *Eastwood*, His Britannic Majesty's Ambassador ventures to make the following observations.

He has noted that it is now stated that the United States Coast Guard Cutter *Seneca* did on February 15th last, while on patrol duty, engage in target practice on the high seas in the vicinity of the *Eastwood* and there is no denial on the part of the Commander of the *Seneca* that shots fired by him may have struck the *Eastwood*. This has in fact never been definitely denied by the Commander of the *Seneca* who, according to his first statement repeated in Mr. Kellogg's note of April 9th last merely reported that the British vessel *Eastwood* "was not fired upon by the *Seneca*". Sir Esme Howard has the honour to hand to the Secretary of State herewith the official report of the competent authorities of the Government of Canada on the fragments of shells and bullets extracted from the *Eastwood*. From this report it appears that these bullets and shells were all of United States make and unless Sir Esme Howard is mistaken, such as are used in the United States Navy.

The circumstances of the case therefore as they appear to Sir Esme Howard are these.

1st. The *Eastwood* was hit by shells and bullets while at anchor on the high seas on February 15th last.

2nd. These shells and bullets are of the kind used by the United States Navy.

3rd. The *Seneca* was engaged in target practice in the vicinity of the *Eastwood* on that day.

4th. The Captain of the *Eastwood* declares that his ship was several times hit by the *Seneca*.

5th. The Captain of the *Seneca* does not directly deny this; he only says that the *Eastwood* was not fired at by the *Seneca*.

Sir Esme Howard is very willing to agree that the word of the Captain of the *Seneca* should be taken before that of such a person as the commander of a ship like the *Eastwood*, and to accept the statement that the *Seneca* did not fire at the *Eastwood*. At the same time, he feels that it would be very useful if Officers commanding United States Coast Guard cutters and other competent authorities could be warned to be more careful in future while at target practice so as to avoid hitting objects which they do not aim at.

He ventures further to remark that, while His Majesty's Government, as the Secretary of State must now be well aware, have shown themselves anxious to do all in their power to cooperate with the United States authorities in order to prevent the violation of United States laws by British subjects and ships flying the British Flag, they can not yet regard it as a light matter that such persons and such ships while on the high seas should be struck, even inadvertently, not once but several times by bullets and shells proceeding from United States Government vessels.

In this connection, Sir Esme Howard ventures to observe the concluding paragraph of the Secretary of State's note under reply seems to contain the principal cause of the divergence of views between His Majesty's Government and the United States Government in this matter.

Sir Esme Howard in his note No. 261 of the 12th April had observed that the fact of the *Eastwood* having been previously engaged in rum running, (which of course is not disputed), would hardly appear to be germane to the question at issue, which is whether or not projectiles by which she seems undoubtedly to have been struck could or could not have been fired by the *Seneca* to the danger of the lives of those on board the *Eastwood*. The Secretary of State replied in the concluding paragraph of his note of August 2nd that attention was drawn to the bad record of the *Eastwood* in order "to invite . . . consideration of the question whether persons who have been engaged in open and deliberate violation of the laws of a friendly State as a business and for financial gain over a long period of time are entitled to the interposition of their Government for alleged or fancied infringement of their so-called rights". To this His Majesty's Ambassador would only reply that the action of His Majesty's Government in the whole course of the different questions that have arisen out of the difficulties encountered by the United States Government in the enforcement of the Prohibition Law should by now have made it clear that they have no wish to protect rum runners as such.

Sir Esme Howard ventures, however, to point out that there are well established rules of international law governing the high seas in time of peace. The shooting of a vessel flying the flag of one Power by an armed vessel of another can hardly, in Sir Esme Howard's opinion, be called "a fancied infringement of the so-called rights" of the former. Whether done on purpose,



or by genuine error or by simple carelessness, it constitutes a serious incident in the mind of His Majesty's Government which, had it resulted in the death of those on board, might have led to a *most* serious incident.

His Majesty's Ambassador certainly has no intention of impugning the veracity of the gallant Officer commanding the *Seneca* and he fully and unreservedly accepts the statement that the *Seneca* did not fire at the *Eastwood*. At the same time, the general evidence would go to show that the *Seneca* did indulge in target practice in the neighbourhood of the *Eastwood* which was anchored in deep water and therefore unable to get out of the way, in view of the necessity for weighing anchor by manual labour, as speedily as could have been wished and that projectiles from the *Seneca* did strike the *Eastwood*.

In these circumstances, His Majesty's Ambassador cannot but express the earnest hope, in which he is convinced that he is expressing the sentiment of His Majesty's Governments in Great Britain and Canada, that the officers of United States Coast Guard Cutters may be warned to be careful about firing in the neighbourhood of ships flying the British flag on the high seas in the future, since a repetition of the *Eastwood* incident, especially if accompanied by loss of life or limb, might lead to so strong a feeling in Great Britain and Canada as would make it very difficult for His Majesty's Governments in both countries to cooperate with the United States authorities as sincerely and as completely as they could wish for the suppression of the illicit liquor smuggling trade.

356.

*Le Gouverneur général à l'ambassadeur britannique aux États-Unis*  
*Governor General to British Ambassador in United States*

TELEGRAM 36A

Ottawa, August 17, 1926

URGENT. Your despatch No. 418 of the 9th August, Urgent, inviting the Canadian Government's comments on the aide memoire which you propose to leave with the United States Secretary of State in the case of the *Eastwood*. My Ministers concur in proposed communication and general tenor of the aide memoire but considering the detailed accounts of the shooting given by the Master and crew of the *Eastwood* and other disputed facts consistent with their story find themselves unable to acquiesce in proposed statement that the word of the Captain of the *Seneca* in the present instance should be taken before that of such a person as the Commander of the *Eastwood* (Paragraph 4, page 3, aide memoire). No consideration has been put forward by the United States Government effective to remove their impression that the conduct of the *Seneca*'s officer was characterized by recklessness and lack of humanity deserving of severe reprimand. Without questioning Your Excellency's judgment that it is advisable to accept the Secretary of State's declaration that the officer did not actually fire at the *Seneca* [*sic*] they



would prefer that it should be accepted without the suggested comparison as to the value of the evidence of the Commanding Officers and in such terms as would not be incompatible with an opinion that the denial of the *Seneca's* officer might be regarded as technical merely.

BYNG

357.

*L'ambassadeur britannique aux États-Unis au Gouverneur général*  
*British Ambassador in United States to Governor General*

DESPATCH 431

Manchester, August 25, 1926

My Lord,

With reference to Your Excellency's telegram No. 36A of the 17th instant and my despatch No. 418 of August 9th regarding the case of the sailing ship *Eastwood*, I have the honour to transmit to Your Excellency herewith copy of a despatch addressed to Secretary Sir Austen Chamberlain enclosing copy of the aide-mémoire on the incident arising from the shelling of the above vessel by the United States Coast Guard cutter *Seneca* which I handed personally to the Assistant-Secretary of State on the 21st instant.

Your Excellency will observe that the original draft of the aide-mémoire was amended in accordance with the wishes of the Dominion Government, and I trust that the terms in which it was finally couched will meet with their approval.

I have etc.

H. W. BROOKS  
 for the Ambassador

[PIÈCE JOINTE/ENCLOSURE]

*L'ambassadeur britannique aux États-Unis au secrétaire*  
*aux Affaires étrangères britannique*  
*British Ambassador in United States to British Foreign Secretary*

DESPATCH 1456

Manchester, August 25, 1926

Sir,

With reference to your telegram No. 170 of 16th August respecting the case of the *Eastwood*, I have the honour to enclose herewith copy of the aide-mémoire<sup>1</sup> which after having made it somewhat stiffer than I originally intend-

<sup>1</sup> Non reproduit. Le texte, sensiblement le même que celui joint au document 355, incorporait les modifications proposées sous le n° 356.

<sup>1</sup> Not printed. The text was essentially that enclosed in Document 355 but incorporated the changes suggested in Document 356.

ed in accordance with the meaning of your telegram above referred to and one received on 17th August from the Governor-General of Canada making suggestions in the same sense, I read on the 21st instant in the absence of the Secretary of State from Washington, to Mr. Leland Harrison, Assistant-Secretary of State, and to Mr. Vallance of the State Department. I had previously spoken about the case to Commander Yeandle of the Coast Guard Service, A.D.C. to Admiral Billard, Officer Commanding that service.

2. I told Commander Yeandle that we had no desire to protect rum-runners and that it was not with that object that we had made a protest with regard to the *Eastwood*, but that there were, as he knew, laws governing international intercourse on the high seas which neither we nor the United States Government could afford to see violated without protest, I knew that the Coast Guard officers of the United States were subject to great provocation on the part of the rum runners but I hoped that instructions would be issued to them not to take any action even under extreme provocation which might give rise to an international incident of serious gravity and make it difficult for Great Britain and Canada to cooperate, as they sincerely wished to do, to end organized rum-running.

3. Commander Yeandle entirely agreed with me but said that we on our side should take into consideration the provocation to which those coast guard officers and crews were subjected. The coast guard cutters which are used for the purpose of picketting rum-runners anchored off the American Coast are generally very small ships commanded by a non-commissioned officer. They stay out as long as their supplies last tossing about in cold and stormy seas in winter with no comforts to speak of and dry only in the sense that they have no warming liquor on board. The rum-running schooners on the other hand are generally larger and more comfortable. The crews are better paid than the coastguardsmen, they are well supplied with good food and with warming drinks. They take a pleasure in taunting the picketting coast guard crew through megaphones or by signals with their inferiority in the matter of comforts both solid and liquid and often invite them on board to come and have a glass of grog.

4. I confess that in these circumstances it is not surprising to me that after a fortnight of this sort of thing coastguardsmen, in their efforts to dislodge the rum-runner from his anchorage, might fire at the crew and hit the pigeon. My only wonder is that incidents of this sort happen so rarely. I am inclined to think that even British sailors under similar provocation might from time to time kick over the traces.

5. After I had read the aide-mémoire to Mr. Leland Harrison and Mr. Vallance, the latter remarked that it was pretty stiff. I said that I had particularly chosen the form of an aide-mémoire and not of a note to convey

what His Majesty's Governments in Great Britain and Canada felt about it, because the former being merely the record of a conversation, so to speak, I was able to convey our meaning more freely than in a formal note. I admitted frankly that so far as my personal sympathies were concerned they were with the coastguardsmen, but I begged them to consider what the result would be if a British subject were killed or seriously injured by bullets or shells fired from an American coastguard vessel on the high seas. This kind of incident if repeated would really rouse public opinion to such an extent that it would be quite impossible for the Governments of Great Britain and Canada to continue to work together with that of the United States as they were now doing and wished to continue to do for the purpose of putting an end to the rum-running nuisance which was such a cause of unpleasant friction.

6. Mr. Leland Harrison seemed to agree with this point of view and said he would acquaint the Secretary of State with what I had said. Mr. Vallance, while perfectly friendly, is, I fear, like all ardent prohibitionists, quite unable to see any side of the medal but his own, and evidently thinks we ought to be prepared to scrap all international regulations that in any way interfere with prohibition enforcement. I shall take the first opportunity of speaking to the Secretary of State on this subject and urging him to see that the necessary warnings are issued to the officers commanding coastguard vessels to prevent the repetition of such incidents.

7. Mr. Vallance said that he had, on his journey to England, discussed the affair of the *Eastwood* with Admiral Billard who had told him that he considered the action of the *Seneca* justified in firing at the target she had put down, as it was a generally recognized rule that when a vessel belonging to the navy of any power wished to engage in target practice on the high seas it was the duty of all merchant vessels to keep out of the danger zone. I said I was not sure of the rule generally followed in such cases but that I could not help feeling that if ships belonging to other countries were damaged or lives on board them lost owing to naval target practice it would always be considered a very serious matter.

8. I have now enquired of Commander Enothe, Assistant Naval Attaché to this Embassy, what is the practice in His Majesty's Navy in case of possible danger to a merchant ship owing to target practice on the high seas. He informs me that while, as a general rule, all merchant vessels take care not to foul the course, when target practice is on, whenever a merchant vessel does so firing is immediately stopped till the ship is out of the danger zone. I shall let Mr. Vallance know this.

9. I am sending a copy of this despatch to the Governor-General of Canada.

I have etc.

ESME HOWARD

358.

*Le secrétaire d'État des États-Unis à l'ambassadeur britannique  
aux États-Unis*

*Secretary of State of United States to British Ambassador  
in United States*

Washington, September 10, 1926

Excellency,

Referring to your aide mémoire dated March 27, 1926, as a result of which officials of the British and American Governments met in London during July to discuss administrative measures to prevent smuggling, I have the honor to state that, as no Canadian representative was present at the conferences in London, it was suggested by the British representatives that certain matters should be taken up separately with the Canadian authorities who dealt regularly with them. It is felt that it would be very helpful if such a conference with the Canadian authorities could be held at an early date in order that these matters might be fully discussed and, if possible, provision made so that the arrangements worked out in London might also be put into effect between the United States and Canada. It is also desired to consider the interpretation of certain provisions of the Convention between the United States and Canada, signed on June 6, 1924, and to ascertain whether amendments to it are necessary in order to make it effective in preventing smuggling operations between the two countries.

I shall be grateful if you will be so good as to cause this matter to receive consideration and to inform me whether the Government of Canada would be disposed to designate representatives to confer with officers of this Government on these subjects.

Accept etc.

FRANK B. KELLOGG

359.

*L'ambassadeur britannique aux États-Unis au Gouverneur général  
British Ambassador in United States to Governor General*

DESPATCH 441

Manchester, September 14, 1926

My Lord,

With reference to my despatch No. 431 of the 25th ultimo, regarding the case of the *Eastwood*, I have the honour to transmit to Your Excellency herewith a copy of an Aide Mémoire which I have received from the United States Government in reply to my representations of August 21. It will be observed that instructions have been issued to the United States Coast Guard

to exercise the greatest care while at target practice so as not to endanger vessels on the high seas and, in these circumstances, I am of opinion that the case of the *Eastwood* may be regarded as satisfactorily disposed of.

I have etc.

ESME Howard

[PIÈCE JOINTE/ENCLOSURE]

*Le ministère d'État des États-Unis à l'ambassade britannique aux États-Unis*  
*United States State Department to British Embassy in United States*

AIDE-MÉMOIRE

The Secretary of State has the honor to acknowledge the receipt of the Aide Mémoire dated August 21, 1926, from His Excellency the Ambassador of Great Britain, concerning the damage alleged to have been sustained by the British schooner *Eastwood* as a result of shots which were fired by the United States Coast Guard Cutter *Seneca* while engaged in target practice on the high seas on February 15, 1926.

The Secretary of State is pleased to inform the Ambassador that a letter has now been received from the Treasury Department in which it is stated that an order has been issued by the Commandant, United States Coast Guard, directing that vessels of the Coast Guard, when engaged in target practice, shall exercise the greatest care so as not to endanger vessels on the high seas.

Washington, September 8, 1926

360.

*Le sous-secrétaire d'État aux Affaires extérieures*  
*au secrétaire, Gouverneur général*

*Under-Secretary of State for External Affairs*  
*to Secretary, Governor General*

Ottawa, October 5, 1926

Sir,

With reference to a despatch from His Majesty's Ambassador at Washington to His Excellency the Governor General, No. 442 of September 14th. 1926, transmitting proposals of the United States Government for discussion with the Canadian authorities of administrative measures for the prevention of smuggling and for consideration of the working and possible extension of



the Convention of June 6th, 1924, on this subject, I am to state that the Government of Canada will be pleased to take part in a joint conference such as is proposed.

It is desired, however, to call attention to the fact that by Order-in-Council of the 28th September, 1926, a Royal Commission, appointed to continue enquiries which have been proceeding for some time into customs administration, has been instructed by the Canadian Government to make an enquiry into the operation of the Convention of June 6th, 1924, and particularly as to whether the Convention is being carried out according to its declared intent, and as to whether any amendment is necessary or desirable to ensure the suppression of smuggling. The Honourable Sir François Xavier Lemieux, Chief Justice of the Superior Court of the Province of Quebec. The Honourable James Thomas Brown, Chief Justice of the Court of King's Bench of Saskatchewan, and The Honourable William Henry Wright, a Justice of the Supreme Court of Ontario, have been appointed Commissioners for the purpose of the enquiry. The Order-in-Council instructs the Commissioners

to continue and complete the said investigation into the Department of Customs and Excise and also to enquire into and report on the operation of the Treaty made between the Dominion of Canada and the United States of America dated June 6th, 1924, for the suppression of smuggling along the International boundary between the Dominion of Canada and the United States of America and as to whether the said Treaty is being carried out according to the declared intent thereof and as to whether any amendment to the said Treaty is necessary or desirable to ensure the suppression of smuggling.

#### It is provided

that they shall have as full and the like powers in that connection as were originally committed to such Committee of the House of Commons as aforesaid and that they shall have power to make findings and recommendations from time to time during the enquiry and to report the same with the evidence taken before them at their direction to Your Excellency in Council for submission to Parliament from time to time as received from the said Commission.

In view of the fact that the above enquiry has been initiated and that the reports and recommendations of the Royal Commission will be of great value in the discussion of the interpretation and possible amendment of the existing Convention and collateral questions, the Canadian Government is of the opinion that it would be desirable to await its findings before setting a date for the proposed conference between representatives of Canada and the United States.

I am to request that His Majesty's Ambassador at Washington may be so informed and may be requested to bring the views of the Canadian Government to the attention of the Secretary of State of the United States.

I have etc.

O. D. SKELTON

361.

*Le ministre aux États-Unis au secrétaire d'État aux Affaires extérieures*  
*Minister in United States to Secretary of State for External Affairs*

DESPATCH 135

Washington, April 18, 1927

Sir,

I have the honour to send you the enclosed copy of a memorandum which I have received from H. B. M. Ambassador on the subject of carriage of liquor from European ports to non-United States destinations on through bills of lading via Halifax and Vancouver.

It will be observed that, according to the suggestion of the Foreign Office, reference is made to the possibility of the Canadian authorities seeing that liquor carried on through bills of lading to a port outside the United States and landed for trans-shipment in a Canadian port is, when re-shipped, only loaded by bona fide vessels.

It is noted that the Foreign Office have arranged for the correspondence relating to the *Pennland* to be sent to your Government.

I shall be glad to be informed of the decision that may be taken in the matter.

I have etc.

VINCENT MASSEY

[PIÈCE JOINTE/ENCLOSURE]

*Mémorandum**Memorandum*

Washington, April 9, 1927

## CARRIAGE OF LIQUOR ON THROUGH BILLS OF LADING

Recent correspondence between His Majesty's Embassy and the Foreign Office, the Consulate-General in New York and the State Department on the activities of the Red Star S.S. *Pennland* effectively brought to the fore the extensive practice which has grown up whereby liquor smugglers engaged in introducing their wares into the United States from the sea obtain their supplies from European ports—largely Antwerp by having these shipped on through bills of lading to fictitious non-United States and non-Dominion destinations on through bills of lading via Halifax or Vancouver. These supplies are carried across the Atlantic in merchant vessels, are discharged *in transit* at one of the Canadian ports mentioned, where they are again loaded into smuggling schooners which then clear ostensibly for some port in the

West Indies or Central America, the liquor being subsequently sold off the United States coast or otherwise disposed of for illegal importation into the United States.

The correspondence, amongst other things, revealed the fact that between August 21 and December 10 last two vessels alone, the *Pennland* and *Zeeland* of the Red Star Line have discharged 99,000 cases of liquor at Halifax *all of which* has been transferred to smuggling schooners,—much to the consternation of the United States authorities.

The Foreign Office hope that it may be possible for the Canadian Government to do something to reduce or even abolish this practice. It is suggested, for instance, that it might be possible for the Canadian authorities to see that liquor carried on through bills of lading to a port outside the United States and landed for trans-shipment in a Canadian port is, when re-shipped, only loaded by bona fide vessels.

The Foreign Office have, therefore, arranged for the correspondence relating to the *Pennland* to be sent to the Dominions Office in order that the Canadian authorities may be in full possession of the facts.

362.

*Le sous-secrétaire d'État aux Affaires extérieures au ministre  
aux États-Unis*

*Under-Secretary of State for External Affairs to Minister  
in United States*

DESPATCH 109

Ottawa, May 2, 1927

Sir,

I have the honour to acknowledge your despatch No. 135 of the 18th April 1927, addressed to the Secretary of State for External Affairs, containing a memorandum from the British Ambassador in Washington on the subject of the carriage of liquor from European ports to non-United States destination on through bills of lading by Halifax and Vancouver.

It is noted that the Foreign Office refers to the possibility of the Canadian authorities taking steps to require that the liquor carried on through bills of lading to a port outside the United States and landed for trans-shipment in Canadian ports should when re-shipped only be loaded by bona fide vessels. It is not clear what is meant by the term 'bona fide vessels'. Provided that the vessel is sufficiently large and seaworthy to reach its presumed destination, the size of the vessel does not appear a material factor and there does not seem to be any reason why if the British Government has not found it possible to stop shipments from Glasgow on large vessels, the Canadian Government should prevent shipment on vessels smaller but adequate for the presumed journey. I desire, however, to advise you that before the receipt of this proposal, the Canadian Government had already taken action to deal in another manner with the practice of trans-shipping at Canadian ports liquor

cargoes shipped from abroad on through bills of lading to Latin American ports. An amendment to the Customs Act passed at the recent session of Parliament provides that such shipments of liquor may not leave Canadian ports without the production of a bond of a guarantee company in double duties that they must produce certificates of landing at a foreign port. Before clearance this bond is required even in case of shipments brought into a Canadian port though not there to be landed, as for example, the liquor cargo of a vessel calling for shelter, provisions, repairs, or any other reason.

I enclose a copy of a memorandum<sup>1</sup> issued by the Department of National Revenue, containing a copy of the Act to amend the Customs Act, section 9 of which contains the amendment in question. I am also enclosing a copy of section 101 of the Customs Act as amended by section 6 of Chapter 18 of the Statutes of 1922, referred to in the said section 9.

I am to request that steps be taken to bring to the attention of the United States Government this change in the Canadian Customs law.

I have etc.

O.D. SKELTON

363.

*Le chargé d'affaires aux États-Unis au secrétaire d'État des États-Unis*  
*Chargé d'Affaires in United States to Secretary of State of United States*

No. 203

Washington, July 19, 1927

Sir,

A Royal Commission which was appointed in September 1926 to continue enquiries into the administration of the Canadian Customs Service, has now nearly completed the hearing of evidence. The members of the Commission are the Honourable James Thomas Brown, Chief Justice of the Court of King's Bench of Saskatchewan, (Chairman), the Honourable William Henry Wright, a Justice of the Supreme Court of Ontario, and the Honourable Ernest Roy, Justice of the Superior Court of Quebec. The Honourable Newton Wesley Rowell, K.C. is Council to the Commission.

Before the Commissioners consider their report, they are most anxious to have an opportunity of securing information concerning certain phases of the administration of the Customs and Consular Services of the United States. It has seemed to them that this could best be accomplished if arrangements could be made for the Commission to hold a meeting in Washington, at which the desired information could be secured from members of the staffs of the appropriate Departments of the Government of the United States. I have

<sup>1</sup> Non reproduit.

<sup>1</sup> Not printed.

the honour, therefore, to inform you that I have been instructed by His Majesty's Government in Canada to enquire whether the proposal to hold a meeting of the Commission in Washington, would be acceptable to the Government of the United States.

I also have the honour to request that, if this proposal should prove to be acceptable, the competent authorities should be moved to arrange for the attendance before the Commission of officers qualified to furnish information on the following matters:

1. Consular agents and consular certificates on invoices, with special reference to the methods by which the fraudulent use of double invoices is avoided. The Commissioners would appreciate greatly any information which officials of the Government of the United States might be prepared to give them on the work of Consular agents, and their value as a safeguard against fraudulent invoicing for customs valuation.

2. Ports of entry. A reduction in the number of Canadian ports of entry at which Customs revenue is collected, has been recommended in evidence before the Commission. It is understood that there are many more ports of entry in Canada than in the United States. The Commissioners would be glad to be able to benefit by the experience of the United States Customs Service in the handling of business with a limited number of ports of entry.

3. Methods of Appraisal. The Commissioners are anxious to learn authoritatively, the chief regulations in force in the United States concerning the appraisal of goods for Customs purposes, and the qualifications which are required for the appointment of appraisers.

4. Refusal of export except to authorized purchasers. Evidence was submitted to the Commissioners at a recent sitting, that the smuggling of alcohol from the United States into Canada across the frontier between Maine and New Brunswick, had been largely stopped by the refusal of the United States authorities to accept export entries for alcohol unless the exports were to persons authorized to sell alcohol for non-potable purposes. The Commissioners would like to secure some definite information about this regulation.

5. The operation of the Treaty of 1924 for the suppression of smuggling. The Order in Council by which the Commission was appointed, included an instruction "to enquire into and report on the operation of the Treaty made between the Dominion of Canada and the United States of America, dated June 6th, 1924, for the suppression of smuggling along the international boundary between the Dominion of Canada and the United States of America, and as to whether the said Treaty is being carried out according to the declared intent thereof, and as to whether any amendment of the said Treaty is necessary or desir-



able to ensure the suppression of smuggling." The Commissioners have heard a great deal of evidence in Canada on the operation of this Treaty from the Canadian point of view, they would now much appreciate any information which the authorities of the United States might desire to place before them regarding the operation of the Treaty, the nature of any difficulties which may have arisen in its operation, and the means by which these difficulties might be removed and the effectiveness of the Treaty increased.

Should the competent authorities of the Government of the United States be so courteous as to be prepared to authorize the Commission to meet in Washington, the Commissioners are anxious to hold their sittings on August 29th and 30th next. They desire to complete their sittings during these two days, but I understand they would be able to sit as well on August 31st if a more extended meeting should prove to be necessary. If, however, this date is not convenient to the Government of the United States, I shall be glad to attempt to arrange a satisfactory alternative.

I have etc.

H. H. WRONG

364.

*Le conseiller de la Commission au Premier ministre*  
*Commission Counsel to Prime Minister*

Dear Mr. King,

Ottawa, September 1, 1927

RE: ROYAL CUSTOMS COMMISSION

The Commission returned from Washington yesterday, having had a very satisfactory conference with the officials of the United States' Government, in reference to the matters set out in the communication sent from the Canadian Legation to the State Department.

As you are aware, the State Department suggested that the proceedings should take the form of a conference rather than a sitting of the Commission and intimated they would be glad to furnish all information in their power. It was clearly understood before the conference commenced—and there was no departure from the understanding throughout the conference—that the Commission was there solely for the purpose of gathering information to aid it in discharging the duties placed upon it by the Order-in-Council under which the Commission was appointed, and all questions of negotiations were matters for the two governments with which the Commission was not concerned.

Although it was a conference, by arrangement with the Acting Secretary of State, the reporter of the Commission took a full stenographic report of the

conference. The understanding, however, was that only such parts of it would be made public as met with the approval of the Department of State. While the proceedings were called a conference, it was virtually a sitting of the Commission without the formality of an oath. The Commission and counsel asked questions and the United States' Government officials gave the information. They had made very careful preparation for the visit of the Commission and had collected information which they thought would be helpful on all the matters covered by the communication from the Canadian Legation to the Department of State. They certainly did everything they could to meet the convenience of the Commission and to assist it in its work. They must have had twenty officials of their Government available from the Customs, State and Justice Departments, including the Chief Appraiser and Assistant Appraiser of the Port of New York. They gave us full information on the operation of their appraisal system and on the procedure adopted to investigate alleged violations or suspected violations of the Customs law, and the prosecution and punishment of such violations. They also gave us information as to the use of their consular service in the certification of consular invoices as a protection against the use of fraudulent invoices for customs purposes. They furnished us most interesting data on the number of their ports of entry and the very substantial reduction they had made in these ports in recent years, and they laid before us information as to the operation of the Treaty, the difficulties encountered, and their suggested methods for meeting them.

The Commission was entertained by the Acting Secretary of State at luncheon at the Metropolitan Club on Tuesday, and, as above intimated, the officials of the United States Government did everything in their power to make the visit of the Commission successful. I know the Commission feel that it would be very fitting if a formal communication were addressed to the Secretary of State of the United States by the Canadian Legation, expressing appreciation of the action of the United States Government.

I should add that Mr. Laurent Beaudry, Secretary of the Legation, did everything in his power to make the visit of the Commission pleasant and profitable, and we all very much appreciate his kindness. We had the opportunity of visting the Legation and we were delighted with the building. It is worthy of Canada.

As soon as the reporter has extended his shorthand notes we will furnish the Department of External Affairs with copies, one to be transmitted to the Secretary of State of the United States with a request to be advised as to whether the Government of the United States has any objection to the Commission incorporating the information, in whole or in part, in its report to the Governor-General in Council.

Yours sincerely,

N. W. ROWELL

365.

*Le ministre des États-Unis au secrétaire d'État aux Affaires extérieures*  
*United States Minister to Secretary of State for External Affairs*

No. 272

Ottawa, November 27, 1928

Sir,

You will doubtless recall the correspondence exchanged during the year[s] 1926 and 1927 between the British Embassy at Washington and the Department of State with regard to an informal conference with Canadian authorities to discuss administrative measures to prevent smuggling and to consider the interpretation of certain provisions of the Convention between Canada and the United States, signed on June 6, 1924, as well as to ascertain whether amendments to this Convention are necessary in order to make it effective in preventing smuggling operations between the two countries. You will also doubtless have in mind the fact that the Dominion Government felt it would be advisable to postpone the holding of such a conference until the report of a Royal Commission conducting an enquiry in Canada into the administration of the Crown customs should be available and that as the Department of State is informed the reports and recommendations of the Royal Commission are now completed.

I have the honor to confirm the Legation's verbal representations of yesterday and to state that I am instructed by my Government to take this matter up immediately with you and to ascertain whether it is agreeable to have the proposed informal conference take place at Ottawa during the first week of January, 1929.

I avail myself etc.

WILLIAM PHILLIPS

366.

*Le ministre aux États-Unis au secrétaire d'État aux Affaires extérieures*  
*Minister in United States to Secretary of State for External Affairs*

DESPATCH 1851

Washington, December 8, 1928

Sir,

As you have doubtless observed from reports in the press, the Federal Grand Jury at Buffalo on December 4th last reported indictments against some thirty Canadian citizens who are charged with conspiring to smuggle liquor into the United States. The persons indicted include a number of prominent officers of Canadian distilling and brewing companies; a full list of the persons indicted does not appear to have been made public. I have refrained from making any direct enquiries of the Government of the United States concerning the charges so made. It would appear, however, from

statements contributed to the press by Mr. Seymour Lowman, Assistant Secretary of the Treasury in charge of prohibition enforcement, that the action of the local prosecuting authorities at Buffalo in securing these indictments has undoubtedly been directed from Washington, and that the Division of Foreign Control of the Prohibition Enforcement Bureau has provided the evidence on which these indictments were based, and has in preparation numerous other indictments said to involve two hundred citizens of Canada and the United States for alleged conspiracy in smuggling liquor across the international border. It is reported that indictments will shortly be presented against employees of telegraph companies and banks, who are said to have furnished facilities for the illicit introduction of liquor into the United States. Mr. Lowman is reported in the "New York Times" of December 5th as having made the following statement:

The Indictment presented at Buffalo charges a conspiracy to violate the laws of the United States on the part of the defendants, alleging that they did wilfully, unlawfully and feloniously conspire to violate the national prohibition act and the tariff act by smuggling whiskey and other alcoholic beverages into the United States.

There have been powerful combinations at work along the border engaged in the illicit shipping of liquor and beer since the advent of prohibition in the United States, and Canadian liquor interests have not only aided and abetted the smuggling of contraband products, but have, it is alleged, actually co-operated to the extent of sending sales agents into the United States, creating dummy consignees and furnishing false and misleading information to Canadian customs officials regarding the destination of liquor shipments so as to insure the delivery of the cargoes on the American side.

2. These indictments, of course, are no more than a gesture unless any of the persons charged enter the jurisdiction of the United States. It has been stated at the Treasury to a representative of the press that the immediate purpose of indicting persons outside the jurisdiction of the United States is to prevent their entry to the United States in order to facilitate the smuggling of liquor. I believe that the authorities in charge of prohibition enforcement will endeavour to place on trial any of the persons named whose appearance they can secure before a court. I have no information as to the nature of the evidence which has been accumulated, though it would appear probable that the reports made by the Canadian Royal Customs Commission have been freely drawn upon. My personal impression is that the authorities would have great difficulty in successfully maintaining before a jury the charges made in the indictments in most of the cases at any rate.

3. I shall be glad to be informed whether you wish me to take any action in the matter. I might make enquiry at the Department of State as to the nature of the evidence on which the indictments are based; I am loth, however, to recommend such a course since previous experience has shown that the Department of State is inclined to regard enquiries of this character as being in the nature of diplomatic protests. I think that it might therefore be well for no official action to be taken at the present time. If these indictments are only the preliminary skirmish in a general campaign against persons accused of smuggling liquor from Canada, it might be wise to wait until

fuller information is available of the intentions of the United States authorities. Their present activities appear to have a considerable bearing on the modification of the Border Smuggling Convention of 1924, particularly on the advisability of making any additions to the list of extraditable offences.

I have etc.

VINCENT MASSEY

367.

*Le secrétaire d'État aux Affaires extérieures au ministre des États-Unis*  
*Secretary of State for External Affairs to United States Minister*

No. 77

Ottawa, December 12, 1928

Sir,

I have the honour to acknowledge your note No. 278 of November 27th, 1928, in which you refer to the correspondence previously exchanged on the subject of an informal conference between the United States and Canadian authorities on the control of smuggling operations.

I have pleasure in stating that the Canadian Government would be prepared to arrange for participation in a conference to discuss the advisability of taking further action for the prevention of commercial smuggling between the two countries. It would be convenient to hold the conference in Ottawa, but the second week in January would be preferable, from our standpoint, to the first week.

I should like to have your view as to the composition of the conference.

Accept etc.

O. D. SKELTON

for the Secretary of State  
for External Affairs

368.

*Le conseiller aux États-Unis au sous-secrétaire d'État*  
*aux Affaires extérieures*  
*Counsellor in United States to Under-Secretary of State*  
*for External Affairs*

CONFIDENTIAL

Washington, January 3, 1929

My dear Dr. Skelton,

You will, of course, have observed the impressive size of the delegation which is being sent from Washington to the Border Smuggling Conference, though I am rather surprised that no official of higher rank has been included, such as Mr. Seymour Lowman or Mr. Castle. Admiral Billard, Dr. Doran and Mr. Camp head the three Divisions of the Treasury which are concerned with prohibition enforcement—the Coast Guard, the Prohibition Bureau, and



the Customs Bureau. Mr. Anslinger is in charge of the Division of Foreign Control at the Treasury which handles information concerning liquor smuggling derived from United States representatives abroad. Mr. de Wolf is a junior solicitor in the State Department, but the addition of Messrs. Mayer and Linnell in Ottawa will strengthen the State Department's representation. Mr. Henderson represents Mrs. Willebrandt's branch of the Department of Justice.

I expect that the delegation will have a great deal to say on the importance of stopping the Canadian leak, which will probably be represented as the serious breach in the dykes through which a large part of the United States is gradually becoming sodden. There is a great deal of exaggeration in this view. The truth is that the only accurate quantitative measure which is available of public disregard for the Eighteenth Amendment is furnished by our figures of the exports of liquor to the United States; since the extent of the illicit traffic from all other sources can only be guessed, the relative importance of the Canadian leak is magnified. Undoubtedly the Canadian figures are large, but there is also no doubt that Canada contributes only a very small percentage of the liquor sold in this country. What that percentage may be is a matter of guesswork. The prize-winning plan in the recent Durant contest for schemes to enforce the Eighteenth Amendment estimated the amount of liquor smuggled from abroad as less than two per cent of the total supply; it was drawn up by an ex-prohibition administrator in New York and may not be far from the truth. I enclose a copy of the plan<sup>1</sup> with this statement underlined.

The domestic manufacture of alcoholic beverages is becoming so highly organized that the Canadian leak only makes much difference in border communities where Canadian liquor can compete successfully with the local product; the stoppage of the leak probably would not make the United States appreciably drier. The press here has lately been carrying tales of the sudden and immense prosperity of the manufacturers of corn sugar; this commodity, until recently a minor by-product, has been discovered to possess the virtue, or vice, of very easy distillation into a drinkable and potent beverage. The increasing wealth of the grape growers of California since 1919 is an old story. The diversion of industrial alcohol is probably still the major source of supply.

My chief purpose in writing to you is to emphasize the view which I expressed in a recent despatch that a refusal by Canada to make any concessions at the Conference would not arouse hostile opinion in this country to a serious degree. The Anti-Saloon League would make a fuss, but I doubt whether there would be much repercussion. I discussed the probable results if the Conference were to fail with Mr. Hickerson of the State Department yesterday, and he said that he personally shared the belief which I have just expressed. He added that the State Department's attitude was that concessions by Canada would be welcomed, but that the Department fully recognized that it might not be politically expedient for the Canadian Government to meet their request.

<sup>1</sup> Non reproduit.

<sup>1</sup> Not printed.

I gathered from him that the United States representatives will concentrate their efforts on urging Canadian prohibition of clearance of liquor to the United States. He said definitely that no suggestion would be made for the addition of conspiracy to extraditable offences, and that it was very doubtful whether the addition of customs offences would be brought up. The United States delegation will argue vigorously that prohibition of liquor clearance would not constitute action on the part of Canada to enforce a domestic law of the United States. They will cite the Treaty arrangements now in force with Norway, Mexico and Cuba. Mr. Hickerson also stated that the British Government was refusing clearance of shipments of liquor destined for United States ports. I have enquired at the British Embassy concerning this point, but have not yet received a reply.

We have already sent up some recent statements made in annual reports and at Congressional hearings by officials here concerning the amount of liquor introduced from abroad. Your telegram regarding General Andrews' estimate two years ago has arrived since I began this letter, and I am having a search made to see whether we can track his exact words. If we succeed, I shall telegraph the result. I am inclined to believe that the cessation of smuggling from Canada would only mean that Canadian liquor would at once be replaced by an inferior local product; another result might be an extension of maritime operations to meet the demands of the wealthy for genuine imported liquors.

I do not know, of course, what distance the Canadian Government is ready to go to meet the United States. The unwholesome conditions created in our own border towns by the smuggling traffic may provide a valid domestic reason for alteration of the present system; and the United States may have useful concessions to make to us. There are so few countries in the world from which the United States wants anything that I feel that we should extract a good price if we meet their wishes in whole or in part. If we do not meet them at all, I believe that it will affect very little the general relations between the two countries.

Yours sincerely,

H. H. WRONG

369.

*Le secrétaire d'État aux Affaires extérieures au chargé d'affaires  
des États-Unis*

*Secretary of State for External Affairs to United States Chargé d'Affaires*

No. 24

Ottawa, March 15, 1929

Sir,

Referring to your note No. 272 of November 27th, 1928, and to the discussions which took place at the Conference of officials on the subject of commercial smuggling held in Ottawa on January 7-10, 1929, I now have the

honour to state that the Canadian Government has given careful consideration to all aspects of the existing situation, and has examined the Report of the Canadian representatives to the Conference, a copy of which is herewith enclosed<sup>1</sup> for the information of your Government.

As you will observe from an examination of the Report, the Conference devoted its attention almost exclusively to discussion of the suggestion made by the United States representatives that the Canadian Government, in addition to the numerous steps already taken, which facilitate the enforcement of the United States laws against the importation of liquor and which are summarized in the Report, should prohibit the export of intoxicating liquors to the United States. Without making at the present time a final decision on this proposal, the Canadian Government is in accord with the opinion expressed by the Canadian representatives that the problem of enforcement facing United States officials, particularly on the Detroit and Niagara border, might in large measure be solved by a further extension of the system of furnishing information as to shipments of liquor provided by the Convention of June, 1924. It will be noted from the Report that instructions have been issued to Canadian Customs officials to provide more detailed and exact information as to shipments, and that more recently steps have been taken to reduce the number of export docks, which will facilitate securing more complete and accurate data. To co-operate with and assist further the Government of the United States in the effective enforcement of its laws, the Canadian Government is prepared to permit United States officers to be stationed on the Canadian side of the border, at ports of clearance to be determined, in order to enable the United States officials themselves to transmit immediately to the appropriate authorities in the United States information to be furnished by the Canadian Customs officials as clearances are obtained as to the clearance of all vessels for the United States carrying liquor cargoes.

Any further suggestions which would make for increased speed, accuracy, or precision in the conveyance of information to the appropriate United States officials will be sympathetically considered.

Accept etc.

W. L. MACKENZIE KING

370.

*Le ministre aux États-Unis au secrétaire d'État aux Affaires extérieures*  
*Minister in United States to Secretary of State for External Affairs*

DESPATCH 742

Washington, March 26, 1929

Sir,

With reference to my telegram of March 25th, and your reply thereto concerning the sinking by the United States Coast Guard vessel *Dexter* of the

<sup>1</sup> Non reproduit.

<sup>2</sup> Not printed.

Canadian schooner *I'm Alone* on the high seas, I have the honour to state that when this incident was reported in the press on Saturday morning March 23rd, the vessel's name was given as the *Imalone*, and it was indicated that her port of registry was in the British West Indies. The British Ambassador in consequence made verbal enquiries at the State Department on Saturday morning concerning the incident, under the impression that the schooner was of British West Indian registry. It was only yesterday that the correct name and registry of the vessel were established beyond dispute, and Sir Esme Howard called on me yesterday morning in order to hand over to me the conduct of the enquiry into the incident. He also notified the State Department that any reply to his enquiries should be addressed to me. I have this morning seen Mr. W. R. Castle, Assistant Secretary of State, in accordance with the instructions contained in your telegram. Mr. Castle was not yet ready to furnish me with an official statement of the facts of the incident. The British Ambassador has also instructed the Consul-General in New Orleans to report to me directly on the case. In view of a misunderstanding of the situation which appeared in the press I have issued a brief statement, the text of which I telegraphed to you this morning, explaining the relationship between the British Embassy and this Legation on the matter.

2. I enclose an extract from the *New York Times* of March 25th which gives in full the version of the incident issued by the captain of the *I'm Alone* at New Orleans. I also enclose an extract from today's *United States Daily* which contains *inter alia* the text of a statement given to the press by the Secretary of the Treasury defending the action of the Coast Guard and citing the inapplicable precedent of the seizure of the *North* by the Canadian authorities.

3. From the facts so far as they have been revealed, it appears that the *I'm Alone* was pursued from a point probably within twelve miles of the coast of the United States, but outside territorial waters for a period of two days and for a distance of over two hundred miles when she was sunk by a different vessel (the *Dexter*) from that which began the pursuit (the *Wolcott*). It is not clear whether or not the *I'm Alone* was followed during all this period by the *Wolcott*, or whether the *Wolcott* desisted from the pursuit after requesting the *Dexter* to intercept the *I'm Alone*.

4. This case seems to present in a greatly exaggerated form issues similar to those involved in the seizure of the *Vinces*, *Pescawha* and *Newton Bay*. The main questions which are raised appear at present to be as follows: (1) The exercise of the right of pursuit against a foreign vessel which has never come within the territorial jurisdiction of the United States; previous decisions appear to indicate that a United States court would uphold the exercise of this right, if the pursuit began within twelve miles of the coast. (2) Whether a pursuit which was carried on for two days and was ended by a



vessel different from the vessel which began it can legitimately be considered as hot and continuous in international law. (3) Whether, even if the position of the United States Coast Guard is admitted on the first two points, the sinking of the vessel with loss of life was justified by her conduct.

5. I have informed the press that no representations on the incident are likely to be made by the Government of Canada for at least two or three weeks. The affair is arousing intense interest throughout the United States and its importance, though probably serious, is in danger of being greatly magnified, primarily because of its bearing on the prohibition issue in this country.

6. I shall of course keep you fully informed of all developments. I am not as yet clear whether the circumstances are such as to justify a formal protest when the facts are revealed, or whether it would be advisable to await the decision of the court before which the captain and crew of the vessel will appear. It is of course possible that the court will uphold the action of the Coast Guard on the same legal grounds as in the *Vinces* and other cases which are mentioned above. You have already informed me that these grounds are objectionable to the Government of Canada, and I understand that the British Ambassador has received similar notification from the Foreign Office. No representations, however, on the question of hot pursuit in relation to the Liquor Convention have as yet been addressed to the Government of the United States. If it is intended that representations should be made in regard both to the *I'm Alone* and the previous cases, the question whether or not they should be postponed until the court has given its decision on the *I'm Alone* appears to warrant careful consideration.

I have etc.

VINCENT MASSEY

371.

*Le ministre aux États-Unis au sous-secrétaire d'État aux Affaires extérieures*  
*Minister in United States to Under-Secretary of State for External Affairs*

PERSONAL AND CONFIDENTIAL

Washington, March 28, 1929

My dear Skelton,

I have your letter of March 25th enclosing the memorandum bearing on the indictment of certain Canadian distillers in Buffalo, N.Y. Am I to understand that having this information I am to approach the Attorney General informally in the hope that the indictment may be quashed?

Yours sincerely,

VINCENT MASSEY



372.

*Le ministre aux États-Unis au secrétaire d'État aux Affaires extérieures*  
*Minister in United States to Secretary of State for External Affairs*

DESPATCH 762

Washington, March 28, 1929

Sir,

In continuation of my despatch No. 742 of March 26th concerning the sinking of the Canadian schooner *I'm Alone*, I have the honour to attach copies of despatches<sup>1</sup> addressed to me by His Majesty's Consul-General at New Orleans enclosing documents bearing on the incident. . . .

4. The points of particular importance appear to me to be his statement of the vessel's exact position at the time when she was first sighted by the *Wolcott*, and the full information which he gives concerning the vessel's speed. Captain Randell is obviously a careful and experienced navigator with full knowledge of the precautions which he had to observe in order to carry on his trade without incurring the risk of seizure by the United States authorities. I am therefore inclined to accept his statement that he was  $14\frac{1}{2}$  or  $14\frac{3}{4}$  miles from shore, and that his vessel's maximum speed was only  $6\frac{3}{4}$  knots. This, as I telegraphed to you this morning, places his vessel far beyond the limit specified in the Liquor Convention of 1924; it also places the vessel outside the 12-mile limit of the United States Tariff Act. It appears from his deposition that he was anchored when first sighted not for the purpose of landing liquor but to examine his engines, and he had therefore no special reason for coming inshore.

5. If Captain Randell's statements are accepted it seems clear that the United States Coast Guard had no right to molest the vessel in any way, much less to pursue and sink her after two days' chase. The doctrine of hot pursuit would not therefore come into the picture and there would be no justification whatever for the action of the Coast Guard. When I wrote my previous despatch I was under the impression that the pursuit probably originated within the treaty limit and that therefore the case was similar in principle though not in degree to the case of the *Vinces*. The captain's deposition clearly reveals that the pursuit was continuous since the *Wolcott* was never out of sight until his vessel was sunk. It will of course be very difficult for Captain Randell to prove in court his exact position, especially since his log was lost with the vessel. Witnesses from the Coast Guard will certainly refuse to admit that the vessel was further than twelve miles from

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<sup>1</sup> Non reproduites.<sup>1</sup> Not printed.

the coast, and I understand that Coast Guard headquarters here have today informed the press that they have "indisputable" evidence that the *I'm Alone* was within this limit.

6. It is unnecessary to comment at length on the other statements in Captain Randell's deposition. The treatment accorded him and his crew after the sinking of the ship, the concealment from him of the boatswain's death, the refusal to permit him to see the British Consul-General on his arrival at New Orleans, and other details recorded in his deposition, have little or no bearing on the international issues involved.

I have etc.

VINCENT MASSEY

373.

*Le ministre aux États-Unis au secrétaire d'État aux Affaires extérieures*  
*Minister in United States to Secretary of State for External Affairs*

DESPATCH 765

Washington, March 28, 1929

Sir,

In continuation of my despatch No. 762 of today concerning the sinking of the *I'm Alone* I have the honor to enclose a copy of a note<sup>1</sup> which has just been received from the Department of State containing the version of the affair which has been adopted by the United States authorities. This version appears only to be directly at variance with the version given by Captain Randell on the very important point of the *I'm Alone's* position when she was sighted by the *Wolcott*. It is stated in the enclosure that the *I'm Alone* was then approximately 10½ miles off the coast. It is to be observed that this would place the vessel well beyond the limit specified in the Liquor Convention of 1924 if Captain Randell's statement of the speed of the vessel is correct. It is admitted that the Coast Guard fired into the hull of the vessel in order to sink her and not merely to disable her.

2. Now that both the full testimony of Captain Randell and the official version of the facts according to the United States Government are available I presume that sufficient evidence is in your hands to enable you to determine whether any representations should be made on the matter to the Government of the United States.

I have etc.

VINCENT Massey

<sup>1</sup> Non reproduite. Pour le texte, voir «The *I'm Alone* Incident», *Documents parlementaires*, 1929, n° 221.

<sup>1</sup> Not printed. For the text of the note, see, "The *I'm Alone* Incident", *Sessional Papers*, 1929, No. 221.

374.

*Le sous-secrétaire d'État aux Affaires extérieures  
au ministre aux États-Unis*

*Under-Secretary of State for External Affairs  
to Minister in United States*

PERSONAL AND CONFIDENTIAL

Ottawa, April 2, 1929

My Dear Mr. Massey,

I have your inquiry of March 28th as to the Canadian distillers' indictment in Buffalo. I believe that with this information on hand you would be in a position to approach the Attorney General informally to ascertain whether the indictment could be quashed. The indictment was of a rather sweeping and unusual character, and I think it would be desirable that it should be quashed, but in view of all the circumstances surrounding this particular transaction and the general liquor smuggling controversy it does not seem desirable at present at least to put the United States Government in a position where it could be announced that the indictment would be quashed as the result of a request by the Canadian Government.

Yours sincerely,

O. D. SKELTON

375.

*Le ministre aux États-Unis au secrétaire d'État aux Affaires extérieures  
Minister in United States to Secretary of State for External Affairs*

TELEGRAM

Washington, April 9, 1929

Note delivered 4 o'clock.<sup>1</sup> Attitude of Secretary of State conciliatory but evidently difference of opinion on all important points. Secretary of State made informal proposal of arbitration under Article 4 of the Treaty and asked for our views as soon as possible. Précis of conversation will be forwarded tomorrow.

376.

*Le ministre aux États-Unis au secrétaire d'État aux Affaires extérieures  
Minister in United States to Secretary of State for External Affairs*

DESPATCH 948

Washington, April 16, 1929

Sir,

With reference to previous correspondence concerning the sinking of the *I'm Alone*, I have the honour to enclose a copy of a note presented to the

<sup>1</sup> Ibid.<sup>2</sup> Ibid.

Secretary of State by the British Ambassador on April 11th stating that His Majesty's Government in the United Kingdom supports the representations made on this subject by His Majesty's Government in Canada.

I have etc.

VINCENT MASSEY

[PIÈCE JOINTE/ENCLOSURE]

*L'ambassadeur britannique aux États-Unis au secrétaire d'État  
des États-Unis*

*British Ambassador in United States to Secretary of State of United States*

No. 205

Washington, April 11, 1929

Sir,

I have the honour to inform you, with reference to the Note on the *I'm Alone* case which was handed to you on April 9th. by the Canadian Minister on behalf of His Majesty's Government in Canada, that His Majesty's Government in the United Kingdom share the views therein expressed, and desire to support the representations made on this subject by His Majesty's Government in Canada to the Government of the United States.

I have etc.

ESME HOWARD

377.

*Le ministre aux États-Unis au secrétaire d'État aux Affaires extérieures  
Minister in United States to Secretary of State for External Affairs*

TELEGRAM

Washington, April 17, 1929

PRIORITY. CONFIDENTIAL. United States reply regarding *I'm Alone* received, 28 pages<sup>1</sup>. Copies forwarded by bag today. Reply claims schooner hailed within treaty limits, ignoring low speed through disabled engine. States Captain's refusal to stop evidences his belief that he was in treaty limits. Claims doctrine of hot pursuit applies to pursuit originating in treaty limits as implicit in treaty and quoting our silence on *Vinces* and other cases as evidence of acquiescence of this interpretation. Legal authorities quoted to support this contention, but no reference made to our citations from Mr. Hughes. Considerable effort made to prove continuity of pursuit. Loss of life ascribed to Captain's refusal to comply with legal orders to stop, and our contention denied that unnecessary force was used. Inaccurate reference

<sup>1</sup> *Ibid.*

<sup>1</sup> *Ibid.*

made to *Siloam* case. Hope expressed that the Canadian Government will agree that coast guard's action was justified. Final paragraph reads as follows:

If your Government, however, after careful examination of this note, still finds itself unable to concur in findings of facts and conclusions of law set forth herein, the Government of the United States will gladly agree to submit matter to arbitration as provided for in Article 4 of the Convention between the United States and Great Britain of the 23rd January, 1924.

378.

*Le ministre des États-Unis au secrétaire d'État aux Affaires extérieures*  
*United States Minister to Secretary of State for External Affairs*

No. 349

Ottawa, April 20, 1929

Sir,

I have the honor to refer to your note No. 24 of March 15th, relative to discussions which took place at the anti-smuggling conference at Ottawa in January last.

In the above communication you were good enough to state that in order to cooperate with and further assist my Government in the effective enforcement of its laws the Canadian Government was prepared to permit United States officers to be stationed on the Canadian side of the border, at ports of clearance to be determined, in order to enable the United States officials themselves to transmit immediately to the appropriate authorities in their country information concerning clearances of all vessels carrying liquor cargoes to the United States.

I now have the honor, under instructions of my Government to inform you that it is the view of its competent authorities that the proposed arrangement would not be a solution of the problem.

Article I of the Convention of June 6, 1924, between the United States and Canada for the suppression of smuggling operations provides for the exchange of information between the appropriate officers of the respective Governments concerning clearances of vessels to any ports when there is ground to suspect that the cargo is intended for smuggling into the territory of either country. Such information has been promptly furnished by the Canadian officials to the designated American authorities, except in a very few cases which were speedily adjusted by the Canadian Government as soon as its attention was called to the matter. But the necessary information to identify the vessels engaged in liquor smuggling has not been available because the data furnished to the Canadian authorities and transmitted to the American officials, were in most cases fictitious.

Canadian officials have faithfully discharged their duties under the Convention, and there is no reason to believe that the information would be more accurate or more helpful if transmitted through American officials stationed on the Canadian side of the border.



While the Government of the United States appreciates the gracious offer of the Canadian Government to permit American officials to transmit information of this kind from Canadian soil, it remains convinced that the only effective means of dealing with the smuggling problem along the border is the conclusion of a treaty amending the Convention of June 6, 1924, to the end that clearance be denied to shipments of commodities from either country when their importation is prohibited in the other.

I avail myself etc.

WILLIAM PHILLIPS

379.

*Le ministre aux États-Unis au secrétaire d'État aux Affaires extérieures*  
*Minister in United States to Secretary of State for External Affairs*

DESPATCH 1043

Washington, April 24, 1929

Sir,

With reference to previous correspondence concerning the sinking of the schooner *I'm Alone*, I have the honour to enclose a copy of the note<sup>1</sup> which I have presented today to the Secretary of State accepting the proposal to submit the matter to arbitration.

I have etc.

VINCENT MASSEY

380.

*Mémoire du sous-secrétaire d'État aux Affaires extérieures*  
*au Premier ministre*

*Memorandum from Under-Secretary of State for External Affairs*  
*to Prime Minister*

[Ottawa,] May 21, 1929

#### CLAIMS FROM CANADIAN RUM-RUNNING VESSELS FOR ARBITRATION

The decision to accept arbitration under Article 4 of the 1924 Liquor Treaty in the case of the *I'm Alone* has given new urgency to the question whether the Government should ask for similar action in the case of other Canadian vessels whose owners claim to have ground for seeking damages.

In October, 1924, after consideration by the Departments of Justice and Marine, the Secretary of State for External Affairs made a recommendation to Council approving the view of the British Ambassador that only those cases should be taken up with the United States Government where there

<sup>1</sup> *Ibid.*

<sup>2</sup> *Ibid.*

seemed to have been a clear violation of the Liquor Treaty resulting in injury to an innocent vessel. This recommendation was approved (P.C. 1705 attached<sup>1</sup>).

From 1924 down to the present, a number of requests have been brought to the attention of the Department of External Affairs by representatives of owners of various vessels which were undoubtedly engaged in rum-running, but which after seizure by United States Coast Guards, were freed by United States Courts on the ground that in the particular instance in question the seizure was not in accordance with the terms of the Treaty. The earliest cases submitted were those of the *Frances Louise* and *Over-the-Top* in 1924, and the latest is that of the *Coal Harbour* submitted last week.

The representatives of these vessels have been informed, with variations, that the question was under consideration. In some cases they have been told that the British authorities were averse to such claims being pushed, and advised that it would be unfortunate if it became necessary to make such a statement in public, as that would militate strongly against the success of any claim, if it were eventually decided to put it forward.

All claims in question were those of notorious rum-runners, but so also was the *I'm Alone*.

It would not seem advisable at the present time to discuss the merits of the individual cases, or even the general principle. It might perhaps be sufficient to say that the question would be considered in the light of the *I'm Alone* case, or it might be added that in view of the fact that the latter case was shortly to be before the arbitrators, it would not appear advisable to discuss the grounds on which claims should or should not be referred under Article 4.

[O. D. SKELTON]

381.

*Le ministre aux États-Unis au sous-secrétaire d'État  
aux Affaires extérieures*

*Minister in United States to Under-Secretary of State  
for External Affairs*

PERSONAL AND CONFIDENTIAL

Washington, June 6, 1929

My dear Dr. Skelton,

I saw Mr. Stimson, the Secretary of State, yesterday, with regard to the forthcoming arbitration on the *I'm Alone* case. I am glad to say that he fully agrees as to the wisdom of both governments appointing to this court men of outstanding ability and wide reputation, possessing a broad view of the legal issues involved.

In connection with the personnel, Mr. Stimson makes a very important point to which, I think, we can agree. He feels that there is some possibility

<sup>1</sup> Non reproduit.

<sup>1</sup> Not printed.

of the initial court of arbitration coming to an agreement on the questions of law involved, although they may not agree on the questions of fact. Such a finding, although the case in question would still be left in doubt, would have a profound effect on the wider aspects of the case and, although not legally binding on the court of appeal, would have a very distinct moral effect on the decisions of that body. If the initial court of arbitration, on failing to agree as to fact, although agreeing on the law of the case, simply announced its failure to agree without declaring its attitude on the purely legal aspects of the case, the value of its agreement on law would be lost. If, on the other hand, it delivered a judgment stating its agreement on all that it could agree upon, something would have been gained which would be of material assistance to both parties when the case reached the court of appeal. It is the second procedure which Mr. Stimson advocates.

As to personnel, the Secretary of State is inclined to favour, as a United States appointee, a member of the judiciary. He doubts whether a member of the Supreme Court of the United States can be released for the purpose. Failing a member of this body, he would like to find a federal circuit judge of high standing, who had not previously committed himself on any aspect of the liquor question. Mr. Stimson is arranging to discuss the matter with the Chief Justice when he returns to Washington in a few days and I expect that in the course of a fortnight or so he will have a definite proposal to make.

Yours sincerely,

VINCENT MASSEY

382.

*Le ministre des États-Unis au secrétaire d'État aux Affaires extérieures*  
*United States Minister to Secretary of State for External Affairs*

No. 396

Ottawa, June 26, 1929

Sir,

I have the honor to inform you that while on patrol with a small motor boat two members of the United States Coast Guard were compelled through force of circumstances to land on the Canadian shore of the Niagara River in order to make necessary repairs.

Shortly after reaching the bank and while attempting to effect the repairs in question, two Canadian customs officers arrived on the scene and arrested both officers, Hubert E. Wilbur and Orville M. LaGrant, and seized the motor boat, machine gun No. 4199 and a Colt automatic pistol No. 552583.

Immediately after the seizure, the Commander of the Ninth District United States Coast Guard, Mr. M. W. Rasmussen proceeded to Bridgeburg, Ontario, Canada, on the morning of April 20th and held a conference with

Mr. Hyatt, Chief of the Canadian Customs Preventative Service, who appeared well satisfied with his explanation of the two men being in Canadian waters.

It would appear that the sole offense of these men was that due to the strong current and run of ice in the Niagara River they considered it necessary to make for the nearest shore and attempt to make repairs. As there was very little ice running on the Canadian side they headed in that direction and landed there for that purpose.

Since this vessel and its equipment are the property of the United States Government and since the members of the Coast Guard, while engaged in the performance of their duties, were compelled through force of circumstances to land on the Canadian shore of the Niagara River in order to make necessary repairs, I venture to express the hope that the return of the motor boat and its equipment may be effected at an early date.

I avail myself etc.

WILLIAM PHILLIPS

383.

*Le secrétaire d'État aux Affaires extérieures au chargé d'affaires  
des États-Unis*

*Secretary of State for External Affairs to United States Chargé d'Affaires*

No. 78

Ottawa, July 27, 1929

Sir,

I have the honour to acknowledge Mr. Phillips note No. 396 of June 26th, in which it is stated that two members of the United States Coast Guard were compelled through force of circumstances to land on the Canadian shore of the Niagara River in the month of April in order to make necessary repairs, and requesting the return of the motor boat and equipment which were seized by officers of the Canadian Customs Preventive Service on this occasion.

The matter has been referred to the competent Department, and we are now informed that there has been apparently some misapprehension as to the facts of the incident in question. The declarations of Henry A. Trudel and Charles N. Downer, Special Customs-Excise Preventive Enforcement officers, dated April 20th, as well as the declarations of Orval LaGrant and H.E. Wilbur, the members of the United States Coast Guard Service concerned, dated April 19th, together with the reports of E.B. Hyatt, District Chief of Customs-Excise Preventive Service, dated April 20th and April 21st (the latter containing a report of a conversation in which Commander W. Rassmusen of the Buffalo Coast Guard District stated that Wilbur and LaGrant had "disobeyed instructions in entering Canadian waters and in taking firearms with them, due to the fact, he believed, as a result of over-zealousness in the

performance of their duty"), copies of all of which are enclosed<sup>1</sup>, make it appear clear that the landing of the two members of the United States Coast Guard Service on the Canadian shore of the Niagara River was not accidental or due to engine trouble, but was deliberate—in the words of the one of the Coast Guards, "with a view to taking observations of rum-runners", and in the words of the other, "for observations of rum-runners with a view to giving chase if they put off to the United States shore."

The Canadian Government would, I believe, have no objection to returning the articles seized. I should, however, be glad to learn whether, after further enquiry into the circumstances in the light of the evidence transmitted herewith, the United States authorities agree that the Coast Guard Officers had intentionally entered Canadian waters and that in such case appropriate action will be taken.

Accept etc.

O. D. SKELTON  
for Secretary of State  
for External Affairs

384.

*Le chargé d'affaires aux États-Unis au secrétaire d'État  
des États-Unis*

*Chargé d'Affaires in United States to Secretary of State of United States*

No. 159

Washington, August 26, 1929

Sir,

I have the honour to refer to previous correspondence concerning the case of the alleged British Schooner *I'm Alone*, ending with the exchange of notes of August 7th, 1929, notifying the appointment by His Majesty's Government in Canada of Eugene Lafleur, Esq., K.C., LL.D., D.C.L., and by the Government of the United States of the Honourable Willis Van Devanter, as members of the Tribunal to be constituted under Article IV of the Convention of January 23rd, 1924. I have now been instructed to submit the following suggestions:

The questions to be submitted to the Tribunal under Article IV of the Convention are:

(1) whether the action of the United States Coast Guard authorities in pursuing and sinking in March 1929 the schooner *I'm Alone*, was justifiable under the Convention or under the principles of International Law, and

(2) if such action was not justifiable under either the Convention or International Law whether the United States shall pay damages, and if so the amount thereof.

<sup>1</sup> Non reproduit.

<sup>1</sup> Not printed.



The members of the Tribunal are requested, even if they do not agree on the questions of fact submitted, to report their agreement on the questions of law involved, so far as they reach agreement.

The following procedure should govern the presentation of the case to and its adjudication by the Tribunal:

## I

Each Government shall designate an Agent or Counsel, or both, to appear before the Tribunal in its behalf and to present orally and in writing to the Tribunal all the arguments and evidence it may consider expedient in support of or against the claim. Testimony may be given orally or by affidavit or deposition and shall be subject to the right of cross examination. When affidavits or depositions have been submitted reasonable notice of intention to cross examine shall be served upon the Agent.

The memorial of the Government of Canada, which shall contain a statement of the law and facts relied upon, together with the supporting evidence, shall be presented by the Canadian Agent to the Agent for the United States within sixty days from the date on which the Tribunal is constituted by the two Governments. A copy of said memorial and the supporting evidence shall at the same time be transmitted to each of the two members of the Tribunal.

The answer of the Government of the United States, which shall contain a statement of the law and facts relied upon, together with the supporting evidence, shall be presented by the Agent for the United States to the Canadian Agent within sixty days from the date on which the Agent for the United States is served with the Canadian Government's memorial and evidence. A copy of said answer and the supporting evidence shall at the same time be transmitted to each of the two members of the Tribunal.

The reply and rejoinder, if any, which shall be restricted to matters in answer to the preceding pleading, shall be presented at intervals of thirty days from the date of service of the preceding pleading. Any of the periods of time herein provided for may be extended by agreement between the Agents, or by the Tribunal.

The subsequent progress of the case will be governed by rules prescribed by the Tribunal. In general the Tribunal shall adopt as the standard for its proceedings the rules of procedure established under the Special Agreement for the Submission to Arbitration of Pecuniary Claims outstanding between the United States and Great Britain concluded August 18, 1910, insofar as such rules may be applicable and are not in conflict with any provision hereof. The Tribunal, however, shall have authority to establish such other rules for its proceedings as may be deemed expedient and necessary not in conflict with any of the provisions herein contained.

The Tribunal shall meet at a place or places to be agreed upon by the Governments within thirty days of the close of the pleadings, unless otherwise directed by the Governments.

## II

Each Government shall have the right to discovery of any documents that are relevant to the matters of issue, and original documents or certified copies of original shall be furnished upon reasonable notice provided that their production is compatible with the public interest.

## III

The Tribunal shall keep a record of its proceedings. The two Governments shall assign to the Tribunal such clerical or other assistance as may be necessary.

The Tribunal is authorized to administer oaths to witnesses and to take evidence on oath.

The decision of the Tribunal shall be given within ninety days from the date in which the hearing is concluded.

## IV

Each Government shall pay its own expenses including the compensation of its own arbitrator. All other expenses which by their nature are a charge on both Governments shall be borne by them in equal moieties.

It is understood that an acceptance by the Government of the United States of the suggestions contained in this note will be regarded as concluding an agreement concerning the matters covered by the suggestions.

I have etc.

H. H. WRONG

385.

*Le Haut commissariat britannique au ministère des Affaires extérieures*  
*Office of British High Commissioner to Department of External Affairs*

SECRET AND CONFIDENTIAL

Ottawa, August 28, 1929

MEMORANDUM<sup>1</sup>

The Secretary in charge of the Office of the High Commissioner for the United Kingdom presents his compliments to the Under-Secretary of State for External Affairs and is instructed to bring to the notice of His Majesty's Government in Canada certain aspects of the *I'm Alone* case as affecting important British interests whether upon the High Seas or in United States territorial waters.

2. The circumstances which attended the destruction of the *I'm Alone* by the United States Revenue authorities may be regarded as raising three main

<sup>1</sup> En transmettant ce memorandum au Premier ministre O. D. Skelton avait fait cette observation: «A rather curious production. Copy sent to Mr. Lapointe.»

<sup>1</sup> In forwarding this memorandum to the Prime Minister, O. D. Skelton commented, "A rather curious production. Copy sent to Mr. Lapointe."

points, namely, (1) whether the schooner was or was not within the limits prescribed by the Anglo-American Liquor Convention of 1924 when first hailed by the United States Coastguard cutter *Walcott* [sic] on the morning of March 20th last; (2) whether under the terms of the existing treaty the doctrine of "hot and continuous pursuit" may be applied in cases in which the pursuit starts outside territorial waters but within treaty limits; and (3) whether the United States Revenue authorities were justified in resorting to drastic methods, involving the extensive use of gun and machine-gun fire, against this vessel on the high seas on the morning of March 22nd of this year.

3. Of these three points, the first is a pure question of fact which must be decided on the evidence available. If it should be decided that the *I'm Alone* was outside treaty limits when first hailed, the United States case will presumably fall to the ground. The second point involves the interpretation of the Liquor Convention; while the third will depend upon the arbitrator's appreciation of what action may be considered reasonable and proper in view of all the circumstances.

4. The importance attached by His Majesty's Government in the United Kingdom to the maintenance of the Convention concluded between Great Britain and the United States of America in the year 1924 for the regulation of the liquor traffic and the contention that the so-called 12 miles limit authorized by Section 581 of the United States Tariff Act of 1922 cannot be made applicable to British shipping on the High Seas are well known to His Majesty's Government in Canada. Mindful none the less of the fact that the Liquor Treaty has as one of its main objects the assisting of the United States in the prevention of liquor smuggling, His Majesty's Government in the United Kingdom would not desire to insist upon what might well be regarded as an unduly narrow interpretation of this instrument. In their view, it would be far preferable to agree to the application of the doctrine of "hot and continuous pursuit" to cases arising outside territorial waters but within treaty limits and to conclude an amending convention for this purpose than to incur any risk of the treaty being abrogated by the United States Government.

5. If, however, the procedure of an amending Convention were adopted, it would seem necessary, as the Treaty is of general application, that the amending Convention should be signed on behalf of all parts of the Empire and should be ratified with the concurrence of all His Majesty's Governments. In view of the difficulty and delay likely to be involved in this procedure, a preferable course would seem to be, if it were possible, that one of the results of the arbitral proceedings should be the inclusion in a joint report under Article 4 of the Treaty, of a recommendation that the Treaty should in future be interpreted in the sense described in the preceding paragraph and that, as the consequence of such a recommendation, His Majesty's Governments and the Government of the United States of America should put on record by

notes to be exchanged at Washington, their intention to give effect to the recommendation of the report in accordance with the first sentence of the second paragraph of Article 4 of the Treaty.

6. As regards point 3, His Majesty's Government in the United Kingdom feel that a firm attitude is necessary. They are of opinion that the personnel of the United States Coastguard are inclined to make far too free a use of fire-arms in their attempts to deal with foreign individuals and ships suspected of being engaged in the illicit liquor trade. In this connexion, His Majesty's Government in Canada may be aware that some eighteen months ago a case occurred in which a reputable British merchant vessel engaged in regular trade to and from the port of Philadelphia was held up in the Delaware River by the Officer in command of a United States revenue cutter, who insisted, with his gun uncovered and his crew at action stations, upon carrying out a meticulous examination of the manifest and other papers carried by the British vessel. The Master of the latter had accordingly no alternative but to anchor his vessel in a position where his ship was not only delayed for a period of more than twelve hours, but was faced with the danger of running aground through the fall of the tide. It is hardly necessary to add that the United States revenue officer acted entirely upon his own initiative, subsequent investigations failing to reveal that he had the slightest evidence that the British ship in question was engaged in the illicit liquor trade. Incidents of this nature, which necessarily call for representations from His Majesty's Government in the United Kingdom, risk giving rise to unfortunate political repercussions, in addition to which they cause entirely unnecessary loss to British interests.

7. Until the appointments of the Canadian and United States arbitrators, agents and counsel were announced, His Majesty's Government in the United Kingdom had been under the impression that this case would be handled in accordance with what they had regarded as the intention of Article 4 of the Liquor Convention with the United States of America namely, that the proceedings before the two persons nominated by the interested governments would not take the form of an arbitration resulting in a legal decision but of an attempt by the said two persons to reach an agreement on a practical solution of the dispute. Had this course been adopted, it would seem that there would have been every opportunity of disposing of the case on the lines suggested in the preceding paragraphs of this memorandum, which would have resulted in the United States Government obtaining, as the result of a joint recommendation, followed by agreement between the Governments concerned as to the interpretation to be placed upon the relevant provisions of the Treaty *in future*, the acceptance of the application of the doctrine of hot and continuous pursuit to cases where the pursuit of liquor smuggling vessels starts within treaty limits but outside territorial waters, while His Majesty's Government in Canada would have obtained a reasonable amount of compensation in the particular case on the ground that the action taken by the United States Coastguard cutters *Walcott* and *Dexter* against the *I'm Alone*



went beyond what was reasonable or justifiable. Now that proceedings are, it appears, to take the form of a regular arbitration, a solution on the above lines may not be so easily reached. Nevertheless, if the view of His Majesty's Government in the United Kingdom, as expressed above, commend themselves to His Majesty's Government in Canada and were communicated by the latter to their counsel, it is felt that an opportunity might well present itself for obtaining a settlement of the case of the *I'm Alone* somewhat in accordance with the suggestions outlined above.

386.

*Le ministre aux États-Unis au secrétaire d'État aux Affaires extérieures*  
*Minister in United States to Secretary of State for External Affairs*

TELEGRAM

Washington, September 20, 1929

I shall not enquire without instructions from you at the State Department concerning the firing by the United States Coastguard on the Canadian schooner *Shawnee* reported in today's press. If immediate enquiry is made press will greatly exaggerate importance of incident. No serious physical damage has been done and if Canadian rights have been infringed representations can be made as effectively later on. I shall send information available here by bag today.

387.

*Le secrétaire d'État aux Affaires extérieures au ministre aux États-Unis*  
*Secretary of State for External Affairs to Minister in United States*

TELEGRAM

Ottawa, September 20, 1929

Your telegram today regarding *Shawnee*. The course you propose is fully approved. Telegram from representatives of owners has been received and declarations are being forwarded and will be given immediate consideration upon receipt.

388.

*Le ministère des Affaires extérieures au Haut commissariat britannique*  
*Department of External Affairs to Office of British High Commissioner*

The Under-Secretary of State for External Affairs presents his compliments to the High Commissioner for the United Kingdom and has the honour to acknowledge receipt of the memorandum submitted by the Secretary in charge of the office of the High Commissioner, relating to the *I'm Alone*, dated the 28th August, 1929.

In paragraphs three and four of the memorandum, the importance attached by His Majesty's Government in the United Kingdom to the maintenance of



the Convention, is stated. It is suggested that the admission that the United States should have the right to hot and continued pursuit in cases coming under the Convention, would be preferable to the abrogation of the Convention by the United States.

His Majesty's Government in Canada is unable to concur in the view that it is insisting upon an unduly narrow interpretation of the Convention. The position taken in the international correspondence relating to the *I'm Alone* and that which will presumably be taken at the hearing, is based upon well recognized principles, which are applied universally to the construction of treaties and other documents. Further, the Government of the United States has relied upon hot pursuit in two only of the many seizures that have taken place during the last five years. Without invoking the doctrine, the Convention has enabled the United States effectively to curb the smuggling of liquor on the seacoasts. It is not suggested that there has been complete prevention, but the Convention has enabled the United States to organize and carry out substantially effective preventive measures.

In view of the effectiveness of the Convention as an aid to the enforcement of the Volstead Act, it would seem to be unlikely that the United States would desire abrogation. Further, there does not seem to be any evidence of a movement towards abrogation in the United States. Any movement towards abrogation would be strongly resisted by the dry forces and there is evidence of the existence in the United States of some apprehension that we may repudiate the Convention if the case is lost. There might have been a movement on the part of the United States shipping interests to denounce the Convention. This danger has been minimized by the recent developments relating to the carrying of liquor by the United States ships.

In view of all of these circumstances, it would seem that the probability of abrogation by the United States is remote. The question can, of course, be given further consideration if the situation changes in this respect.

In the memorandum it is suggested that it would be desirable to amend the Convention so as to permit a right of hot pursuit. It would appear that this is a matter that can best be dealt with after a judicial determination as to whether such a right exists. It may be that after the hearing such an amendment of the Convention will be unnecessary. If on the other hand the Tribunal decides that there is no right of hot pursuit, that would be the proper time for the United States to request any necessary amendments, and the bargaining position would then be substantially better. The suggested procedure for amendment would not be acceptable either to His Majesty's Government in Canada, or to the Government of the United States. To submit such a matter to the arbitrators would for practical purposes commit His Majesty's Government in Canada so that it would be morally bound to implement their recommendation. Practically, this would give to a completely independent and irresponsible individual power to determine matters of policy which, under our constitutional system, must be decided by Parliament.

In paragraph seven of the memorandum it is suggested that the first part of Article 4 of the Convention was not intended to authorize an arbitration. The difficulty of interpreting this article is apparent. If it had been suggested that it was not intended to provide a judicial determination, it is not certain that any of His Majesty's governments would have adopted the Convention. It is also clear that the United States Government would not have agreed, under any circumstances, to submit the questions to a political board for recommendation. In any event, His Majesty's Government in Canada would consider it undesirable to submit vital questions, as to the legal rights of Canadian ships on the high seas, to be determined without a proper presentation of the case and a proper judicial Tribunal for the solution of the problems. A reference to the international correspondence, and particularly to the note from the United States Secretary of State to the Canadian Minister, 17th April, 1929; and to the note from the Canadian Minister to the United States Secretary of State, 24th April, 1929, will indicate that an arbitration was contemplated in the reference made by the notes. If both Governments had in mind a judicial determination, there can be no doubt that it would not have been possible to obtain the agreement of the United States to refer the matter to a non-judicial board.

His Majesty's Government in Canada is most anxious to co-operate in every way with His Majesty's Government in the United Kingdom and to take any steps within its power to preserve British interests. On the other hand, it would not seem that the present contemplated action is prejudicial in any sense to British interests. Indeed, it would appear that His Majesty's Government in Canada is following a course of action that should be of definite advantage to all countries and all governments that have an interest in maintaining the freedom of the seas in times of peace.

Ottawa, September 20, 1929

389.

*Le secrétaire d'État aux Affaires extérieures au chargé d'affaires  
aux États-Unis*

*Secretary of State for External Affairs to Chargé d'Affaires  
in United States*

DESPATCH 346

Ottawa, October 1, 1929

Sir,

With reference to your despatch No. 1940 of 20th September regarding the alleged firing on the Canadian schooner *Shawnee* by a vessel of the United States Coast Guard, I have the honour to enclose herewith a copy of Statutory Declaration<sup>1</sup> made by Captain John MacLeod, the master of the schooner giving particulars of the occurrence.

<sup>1</sup> Non reproduite.

<sup>1</sup> Not printed.

You will observe that this document makes it clear that the vessel was a "rum-runner" and that she was proceeding or lying to without lights directly before the firing took place; it would, therefore, not seem advisable to communicate its full text to the State Department but as the incident is said to have taken place at a distance of seventeen miles from the nearest United States territory while the extreme speed of the *Shawnee* has never exceeded twelve knots, I think the matter should be brought to the attention of the United States Government with a request for investigation of the circumstances and a disavowal of the action of the Coast Guard if the Captain's story is ascertained to be well-founded.

I have etc.

W. H. WALKER  
for the Secretary of State  
for External Affairs

390.

*Le secrétaire d'État des États-Unis au ministre aux États-Unis*  
*Secretary of State of United States to Minister in United States*

Washington, October 21, 1929

Sir,

I have the honor to acknowledge the receipt of Mr. Wrong's note No. 159 dated August 26, 1929, suggesting terms for the submission of the case of the alleged British schooner *I'm Alone* to the tribunal constituted under Article IV of the Convention concluded on January 23, 1924, between the United States and Great Britain to aid in the prevention of the smuggling of intoxicating liquors into the United States.

I accept the first question proposed by you for submission to the tribunal. I suggest, however, that the second question proposed by you should be changed to read as follows:

(2) if such action was not justifiable under either the Convention or International Law whether the United States shall pay compensation and if so the amount thereof and to whom such compensation shall be payable.

It is further suggested that the rules governing the production or effect of evidence before the tribunal, as set forth in the first paragraph of section one prescribing rules of procedure, should be amended to provide as follows:

1. Each Government shall be entitled to summon witnesses before the tribunal and to examine them orally. Such witnesses shall be subject to cross examination.

2. Each Government shall be entitled upon reasonable notice to take depositions before any person authorized to administer oaths by

the law of the place where a deposition is to be taken. The other Government shall have the right to be represented and the deponent shall be subject to oral cross-examination. All objections shall be reserved for the tribunal.

3. Each Government shall be entitled to submit testimony by any affidavit heretofore or hereafter taken. In such cases, the agent of the other Government shall have the right to require the production of the affiant for the purposes of cross-examination. If the affiant cannot be produced the tribunal may reject the affidavit or determine its weight if received.

4. When affidavits are produced as admissions the affiant shall not be subject to cross-examination but may be called for direct examination by the other party.

5. When affidavits are intended to be used they shall be filed and copies delivered to the agent not less than three weeks before the hearing.

It is also suggested that the memorial and the answer in this case should have the character of pleadings in an equity suit and that they should not be accompanied by the proof intended to be adduced in support thereof and that each of these documents should contain a concise statement of the contention of the Government that files it. To that end it is suggested that the words "together with the supporting evidence" should be omitted from the second and third paragraphs of part one of Mr. Wrong's note above mentioned where they occur following the word "upon" and preceding the word "shall".

Upon being advised that Canada agrees to these amendments this Government will consider the agreement to be in effect.

Accept etc.

J. P. COTTON  
for the Secretary of State

391.

*Le Haut commissaire au secrétaire d'État aux Affaires extérieures*  
*High Commissioner to Secretary of State for External Affairs*

TELEGRAM 101

London, November 7, 1929

Following from Skelton. Begins. References. Note of 21st October from Cotton to Canadian Minister at Washington, letter from Cotton to Mr. Massey 21st October regarding *I'm Alone*.

I would suggest that Canadian Minister be authorized to accept proposal contained in Mr. Cotton's note, embodying in his acceptance the terms contained in note from Charge d'Affaires to the Secretary of State, No. 159

of the 26th August, and incorporating with them amendments set forth in Mr. Cotton's note of the 21st October. This proposal is approved by the Minister of Justice, and Mr. Read has communicated with the Legal Adviser at the Foreign Office and furnished him with copies. Ends.

392.

*Le sous-secrétaire d'État aux Affaires extérieures par intérim  
au Haut commissaire*

*Acting Under-Secretary of State for External Affairs to High Commissioner*

TELEGRAM 109

Ottawa, November 8, 1929

IMMEDIATE. Following for Skelton. Begins. Letter received from Tilley re *I'm Alone* contains observations on draft terms of reference based on consideration of memorandum enclosed in letter from Read dated September 23rd. Tilley holds that by first question in draft we admit pursuit, and that we should not make that admission, as our contention may possibly be that on the evidence there was no continuous pursuit by either coast guard vessel. He cannot understand why the question goes beyond word "justifiable". As to second question he considers nothing gained by asking to whom damages are payable, presuming the damages would be paid to Canada which would see to distribution. He also raised further point as to whether we should submit questions when we are entitled to submit the claim on behalf of a British vessel. The arbitrators should decide the validity of claim as presented without questions being propounded for them to answer. He feels above points should be fully discussed, and assumes that before terms of reference are finally agreed on they will be submitted to Council. Have delayed therefore the despatch to Massey suggested in your telegram No. 101 of November 7th. Ends.

393.

*Le Haut commissaire au secrétaire d'État aux Affaires extérieures  
High Commissioner to Secretary of State for External Affairs*

TELEGRAM 104

London, November 13, 1929

Following from Skelton. Begins. Your telegram 8th November, No. 109, concerning the *I'm Alone*. In view of position taken by Mr. Tilley, I concur in view that despatch to Massey suggested in my telegram 7th November, No. 101, should be delayed until Read's return to Ottawa. The questions raised have been considered and I do not think that there is any substance in point submitted by Mr. Tilley. Read has conferred unofficially with Legal Adviser to Foreign Office. He takes the same view and further agrees that it would be dangerous to adopt points raised. Read will discuss with Tilley on his return. Ends.



394.

*Le ministre aux États-Unis au secrétaire d'État aux Affaires extérieures*  
*Minister in United States to Secretary of State for External Affairs*

DESPATCH 2340

Washington, December 2, 1929

Sir,

With reference to my Despatch No. 2073 of October 15th, 1929, and previous correspondence concerning an encounter between a vessel of the United States Coast Guard and the Canadian schooner *Shawnee*, I have the honour to enclose a copy of a note<sup>1</sup> from the Department of State containing the results of the investigation made into the incident in consequence of the request made to the Secretary of State in my note No. 195 of October 10th, 1929.

2. It will be observed that, after setting forth the circumstances of the incident as contained in a report from the Treasury Department, the enclosure concludes with a statement that the Government of the United States recognizes that the action of the Coast Guard cutter was without legal authority and that in consequence it regrets the occurrence of the incident.

3. The report from the Treasury Department agrees on the whole with the affidavit of the master of the *Shawnee* regarding the events of the encounter, but differs in several important particulars as to the sequence in which these events occurred. It contains the definite statement that the Coast Guard commander mistook the *Shawnee* for a United States vessel and that, as soon as the *Shawnee* was identified as a Canadian vessel, his interference with her ceased immediately. The report also states that the *Shawnee* returned after the encounter to her original location and proceeded to land the remainder of her liquor cargo before making for Halifax. It is added that the Treasury Department is in possession of information that the *Shawnee* is owned by citizens of the United States. Finally, the report suggests that action against the master of the *Shawnee* might be taken by the Government of Canada for navigating his vessel in a dangerous manner.

4. In handing me this note, Mr. W. R. Castle, Jr., Assistant Secretary of State, observed that he considered that in a case such as this, involving a notorious smuggling vessel and resulting in no important material damage, the Government of Canada might at most confine itself to making informal enquiry concerning the incident in place of raising the question in a formal note.

I have etc.

VINCENT MASSEY

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<sup>1</sup> Non reproduite.<sup>1</sup> Not printed.

395.

*Le secrétaire d'État aux Affaires extérieures au ministre aux États-Unis*  
*Secretary of State for External Affairs to Minister in United States*

TELEGRAM

Ottawa, December 3, 1929

CONFIDENTIAL. Your telegram 27th November proposal to require persons crossing border to employment to pay head tax and present immigration visa at each entry. Much hope that no serious ground for anticipating adoption of this proposal. If likelihood of such adoption becomes apparent you should inform Secretary of State that I have been contemplating asking Parliament to give authority to stop the granting of clearances for liquor shipped from Canada to the United States, but that such an intention would have to be abandoned altogether if feeling of resentment were aroused in Canada as certainly would be the case by action of United States such as suggested. Please do not make this representation however unless absolutely imperative so to do, in which event it would be well to make mention of President Hoover's interest in matter of liquor clearances.

396.

*Le ministre aux États-Unis au secrétaire d'État aux Affaires extérieures*  
*Minister in United States to Secretary of State for External Affairs*

DESPATCH 2376

Washington, December 6, 1929

Sir,

With reference to your telegram of December 3rd concerning the recent proposal of the Secretary of Labor that all persons entering the United States for employment should be required to pay a head tax and present an immigration visa at each entry, I have the honour to report that steps have now been taken which seem to me to be likely to secure, at any rate, tacit withdrawal of the proposal.

2. The proposal was advanced by the Secretary of Labor in an interview with press correspondents on November 27th. It seems that he had not discussed it with the senior officials of his Department, and he had certainly not consulted the Department of State. The main argument which he advanced was that the Government of Mexico had recently required that persons employed in Mexico should not reside in the United States. I believe, however, that Mr. Davis's action was prompted by labour organizations in Detroit rather than by any consideration of conditions on the southwestern boundary of the United States.

3. As I informed you in my telegram of November 30th, I discussed the matter that morning with Mr. W.R. Castle, Jr., who was acting as Secretary of State in the absence of Mr. Stimson. He promised at once to look into the matter and to bring it to Mr. Stimson's attention on his return to Washington.

4. The question was further discussed with Mr. Castle on December 5th by Mr. Wrong. Mr. Wrong, while making no mention of the question of liquor clearances, informed Mr. Castle, in the light of the information contained in your telegram of December 4th, that you greatly hoped that there was no serious ground for anticipating the adoption of the proposal and that you believed that its adoption would certainly arouse a feeling of resentment in Canada. Mr. Castle agreed that there would be good ground for resentment, and added that he felt that the Secretary of Labor must have forgotten the assurances conveyed by the Department of State in a note, dated June 30th, 1927, quoting the exact language used by the Department of Labor. He said that the question had already been raised by the Secretary of State at a meeting of the Cabinet and that he himself and Mr. Robe Carl White, Assistant Secretary of Labor, had been delegated to discuss the question further. He remarked, apparently as a result of what had transpired in the Cabinet meeting, that the President was of the opinion that those who work in the United States should also live there, but that Mr. Hoover fully recognized the special situation created at points on the Canadian border by the long-standing freedom of intercourse. He added that the Secretary of Labor under-estimated the number of "border-crossers" at Detroit at 7,500, and that the opinion of the Department of State was that the correct number was 10,000 or 12,000. Mr. Wrong said that the most graphic way of realizing the effect of the adoption of the Secretary of Labor's proposal was that it would deprive of their means of livelihood at least a quarter of the population of the Border Cities, who depended for their sustenance on the earnings of "border-crossers". Mr. Castle felt that at present the low figure used by the Secretary of Labor was advantageous and urged that it be not challenged, inasmuch as it would be difficult for Mr. Davis to maintain that 7,500 "border-crossers" seriously affected the domestic labor market. In conclusion, Mr. Wrong expressed the hope, that at any rate, an informal assurance could be given before long that the proposal had been dropped.

5. I note that in your telegram of December 4th I am instructed to mention the question of liquor clearances only if I consider it "absolutely imperative". However, in view of your verbal instructions conveyed to me during the course of our conversation in Toronto on December 5th I propose, when seeing the Secretary of State on Monday next in connection with other matters, to mention the bearing of the proposal of the Secretary of Labor on public opinion in Canada in connection with the subject of liquor exports to the United States. I consider that, in view of the situation as it stands at present, it is advisable that this aspect of the matter should be drawn to Mr. Stimson's attention informally, and, of course, without undue emphasis.

I have etc.

VINCENT MASSEY

397.

*Le secrétaire d'État aux Affaires extérieures au chargé d'affaires  
des États-Unis*

*Secretary of State for External Affairs to United States Chargé d'Affaires*

No. 17

Ottawa, March 3, 1930

Sir,

I have the honour to refer to my note No. 78 of the 27th July, 1929, with reference to the seizure of a motor boat and equipment belonging to members of the United States Coast Guard who landed on the Canadian shore of the Niagara River.

The question has been further considered by the competent Department, and it has been decided that in view of the fact that the articles in question are the property of the United States Government, they will be released at once. Instructions are being sent to the Customs Preventive Service to arrange the release of the goods detained to whatever United States officers are entitled to receive them.

I desire to add that further consideration of the incident has confirmed the opinion set forth in the note referred to, that the two members of the United States Coast Guard Service in question knowingly took up a position in Canadian territory as a base of operations. I should be glad to learn whether further enquiry by the United States authorities have led them to concur in this view and in the desirability of taking appropriate action accordingly.

Accept etc.

O. D. SKELTON  
for the Secretary of State  
for External Affairs

398.

*Le sous-secrétaire d'État des États-Unis au ministre aux États-Unis*

*Under-Secretary of State of United States to Minister in United States*

Washington, March 6, 1930

My dear Mr. Minister,

I received a letter the other day from George Pepper, of which I enclose a copy. I am sending it on the chance that it may awaken an answering chord in your breast, but if it does not, disregard it.

Very sincerely yours,

J. P. COTTON

## [PIÈCE JOINTE/ENCLOSURE]

*L'agent des États-Unis au secrétaire d'État des États-Unis par intérim*  
*United States Agent to Acting Secretary of State of United States*

Philadelphia, March 5, 1930

Dear Mr. Cotton,

The *I'm Alone* case gives me considerable concern. Quite irrespective of what the Tribunal may decide, I feel sure that the trial of its several issues will be of advantage neither to Canada nor to the United States.

At the outset, when the facts as reported appeared to involve an affront to the sovereignty of a great nation, a dignified protest was of course in order. Now, however, the international questions are likely to be relegated to the realm of the purely academic and the case will become a mere exposé of an avowed conspiracy between Americans and Canadians to violate the laws of the United States. Whether, in order to foil the conspiracy, the United States did or did not do something technically violative of Canadian rights is not likely to be regarded as a very serious question by the large-minded men who direct Canadian policy.

Once Canada has filed her memorial all the dirty linen must, of course, be washed in public. I have been wondering whether there is not some way, entirely consistent with the dignity of Canada, by which the filing of the memorial can be indefinitely postponed. The case has, for the moment, ceased to be "news" and if anything is to be done in this direction, it should be done now.

You may not think it feasible, but I am inclined to suggest that you have an informal conversation on the subject with the Canadian Minister. If he is at all impressed by the considerations above outlined, it might finally result in the sending by us to Canada of a carefully drawn letter which Canada would accept as a substitute for further proceedings. Such a letter would refer to the eclipse of the legal questions in the case by the unpleasant and somewhat sensational circumstances surrounding the plot in which the vessel was engaged, would suggest that, with such a background, an authoritative determination of questions of sovereignty and jurisdiction is unlikely, would express, irrespective of technical rights, regret at even a seeming affront to the dignity of Canada, and would suggest that the Canadian protest be not further pressed, upon the understanding that nothing in the *I'm Alone* incident should hereafter be regarded by the United States as a precedent justifying similar conduct.

It may be that there are insuperable objections to any such course as I propose, but if so they do not occur to me. I make the proposal for such consideration as you care to give it.

Yours sincerely,

GEORGE WHARTON PEPPER



399.

*Le secrétaire d'État aux Affaires extérieures au chargé d'affaires  
des États-Unis*

*Secretary of State for External Affairs to United States Chargé d'Affaires*

No. 24

Ottawa, March 22, 1930

Sir,

I have the honour to refer to Mr. Phillips' note No. 349 of April 20, 1929, with regard to measures under consideration for the further control of smuggling operations along the border between Canada and the United States, and particularly to Mr. Phillips' statement that the only effective means of dealing with the smuggling problem along the border would be the conclusion of a treaty amending the Convention of June 6, 1924, to the end that clearance be denied to shipments of commodities from either country when their importation is prohibited in the other.

The Canadian Government has been giving further consideration to the question in the light of experience in Canada as well as of developments in border enforcement by the authorities of the United States, and has reached the conclusion that further action is desirable as regards both the special problem of the smuggling of intoxicating liquors and the general problem of commercial smuggling.

As to the export of intoxicating liquors from Canada, which involves the use of governmental agencies in the release of liquors from bond as well as in the issue of clearances, it has been considered advisable that action should be taken forthwith by Dominion legislation. A bill has accordingly been introduced into the House of Commons to amend the Export Act, the main purpose of the amendment being to require officials of the Dominion Government having charge of liquor in bond and the granting of clearances to vessels to refuse to release such liquor or to grant such clearances where the granting of such release or clearance in any case would facilitate the introduction of intoxicating liquor into a country where the importation of such liquor is forbidden by law.<sup>1</sup> This measure has received second reading in the House of Commons and is now being considered in detail in committee. It will be observed from the copy of the bill which I enclose that it is general in its terms, applying to export to any country where the importation of intoxicating liquor is forbidden by law.

As to the general problem, it will be recalled that in discussing the holding of a conference to consider the various proposals put forward for further action to ensure the prevention of smuggling, the Canadian Government indicated, in February, 1927, its desire that the discussion should not be confined to the question of the smuggling of liquor but should cover all forms

<sup>1</sup> Cette mesure entra en vigueur le 30 mai 1930.

<sup>1</sup> This provision came into effect on May 30, 1930.

of commercial smuggling from each country into the other. The Canadian Government believes that the present would be an opportune time to conclude with the United States a treaty as suggested amending the Convention of June 6, 1924, to provide on a reciprocal basis for the denial of clearance of shipments of merchandise by water, air, or land from either country to the other when their importation is prohibited by the latter, and for such further reciprocal measures for the suppression of smuggling as may be found feasible.

The Canadian Government would therefore be prepared to take the necessary steps at an early date for the conclusion of such a convention.

Accept etc.

W. L. MACKENZIE KING

400.

*Le secrétaire d'État aux Affaires extérieures au chargé d'affaires  
des États-Unis*

*Secretary of State for External Affairs to United States Chargé d'Affaires*

Ottawa, April 3, 1930

Sir,

I have the honour to acknowledge your note of April 1, 1930, on the subject of a proposed treaty amending as suggested in my note of March 22, 1930, the Convention of June 6, 1924, to provide on a reciprocal basis for the denial of clearance of shipments of merchandise by water, air, or land from either country to the other when their importation is prohibited by the latter, and for such other reciprocal measures for the suppression of smuggling as may be found feasible.

It is gratifying to learn that the Government of the United States is prepared to conclude such a treaty at an early date. It is noted that it hopes to submit a draft of such a treaty within a few days for the consideration of the Canadian Government.

I may state, for the information of the Government of the United States, that the Canadian Government has also the draft of such a treaty in preparation<sup>1</sup> and will be prepared to arrange at an early date for discussion looking to the conclusion of an agreement.

Accept etc.

W. L. MACKENZIE KING

<sup>1</sup> Le projet canadien fut soumis le 21 mai 1930 et une contre-proposition fut présentée par la ministre des États-Unis le 30 septembre 1930. Dans une memorandum à W. D. Herridge, en date du 6 août 1931, O. D. Skelton affirmait qu'on en était au point mort.

<sup>1</sup> The Canadian draft was submitted on May 21, 1930, and an alternative was received from the United States Minister on September 30, 1930. In a memorandum to W. D. Herridge, dated August 6, 1931, O. D. Skelton stated that no further action had been taken.

401.

*Le sous-secrétaire d'État aux Affaires extérieures  
au ministre aux États-Unis*

*Under-Secretary of State for External Affairs  
to Minister in United States*

PERSONAL AND CONFIDENTIAL

Ottawa, April 4, 1930

My dear Mr. Massey,

With reference to your personal and confidential letter, dated 7th March, 1930, in which was enclosed a copy of an informal note, dated 6th March, 1930, from Mr. Cotton, and also a letter from Mr. Pepper to Mr. Cotton, dated 5th March, 1930, and headed: "Re *I'm Alone* No. 95", the matters dealt with have been discussed by a conference, held yesterday, including the Minister of Justice, Mr. Edwards, Mr. Tilley, Mr. Geoffrion, Mr. Read and myself.

There was general concurrence with your views as to the effect of Mr. Pepper's letter, in that it gives us an admirable opportunity to discuss, informally, with the Authorities in Washington, Mr. Tilley's view as to the procedure to be followed in the *I'm Alone* arbitration.

Referring to Mr. Cotton's letter, it would obviously be impracticable to accept his proposal in its present state. It would amount to a complete abandonment of our claim with no corresponding advantages, and it could not possibly be justified in Parliament or anywhere else. On the other hand, Mr. Pepper's desire to avoid disagreeable publicity is one that must necessarily be shared by all who are concerned in this case. It would seem that the end could be attained by departing from the existing proposals for a formal arbitration and by providing for a less formal investigation of the case by Mr. Lafleur and by Mr. Justice Van Devanter. This could be obtained by a simple request that Mr. Lafleur and Mr. Justice Van Devanter should meet and consider the case with the expectation that they would request the Department of State and this Department to furnish them with all the information available relating to the case. They could then submit any recommendations that might result from agreement; or, in the event of their being unable to agree, they could report disagreement to the respective Governments.

In the event that there was disagreement, the matter of whether further proceedings should be taken before the Pecuniary Claims Tribunal, would be a matter to be determined by the Canadian Government. It would be impossible to say in advance what would be done in that case. On the other hand, it is quite clear that if the Government so desired, there would then be an admirable opportunity to withdraw with dignity, and in that case, Mr. Pepper's objective would have been attained in a manner consistent with the dignity of this Government.

On the other hand, if the Canadian Government should desire to proceed to the formal arbitration, the United States would not have lost anything, but

would have saved a very substantial amount in the way of costs with the Preliminary Proceedings. Further, unpleasant publicity would be avoided by such a procedure.

Another advantage of following such a course is that we should be falling in with the position taken by the British Government, set forth in a memorandum<sup>1</sup>, a copy of which is enclosed. The reason for our change of views as to procedure can be ascribed to the presentation of the British Government's interpretation of Article 4 of the Convention, subsequently concurred in by Counsel for the Canadian Government.

In order to carry out these suggestions, it would appear to be desirable that you arrange to discuss the matter informally with Mr. Cotton.

Yours sincerely,

O. D. SKELTON

402.

*Le ministre aux États-Unis au sous-secrétaire d'État  
aux Affaires extérieures*

*Minister in United States to Under-Secretary of State  
for External Affairs*

CONFIDENTIAL

Washington, April 10, 1930

My dear Dr. Skelton,

I had a conversation this morning with the Acting Secretary of State, Mr. Cotton, with regard to the arbitration of the *I'm Alone* case. I told him that the proposal made informally by Mr. Pepper and transmitted by him, could not be accepted by the Government of Canada. Mr. Cotton said that he readily understood why such a course would not be acceptable and was rather apologetic in referring to the line of argument taken by Mr. Pepper. I told him, however, that we were not unsympathetic in our attitude towards several of the points made by Mr. Pepper, in particular his feeling that it would be a matter of mutual interest to avoid publicity as far as might be possible.

I then suggested that we might find it advisable, on further consideration, to agree that the arbitration should take the form of an informal investigation, and developed this idea to some extent. I found Mr. Cotton quite interested in this interpretation and he expressed the opinion that as far as he could see, there would be no objection whatever to our following this course. He felt, however, that he would like to consult the United States counsel before proceeding any further. I suggested that it might be well if Mr. Pepper and his vis-à-vis in Ottawa, Mr. Read, should meet and discuss this matter

<sup>1</sup> Vraisemblablement le document 385.

<sup>2</sup> Probably Document 385.

informally. He concurred in this and promised to let me know in the next few days if, and when, Mr. Pepper would like to meet Mr. Read and discuss this matter.

I shall, of course, let you know directly I hear from Mr. Cotton on this subject.

Yours sincerely,

VINCENT MASSEY

P.S. Since writing this I have been told by a journalist here that Mr. Pepper is at present in New Orleans with a representative of the State Department presumably in connection with the *I'm Alone* case. I have had no opportunity of verifying this information.

V.M.

403.

*Mémorandum du Conseiller juridique*

*Memorandum by Legal Adviser*

Ottawa, April 30, 1930

CONFERENCE HELD ON THE 26TH AND 27TH APRIL, 1930,  
AT MR. PEPPER'S HOUSE, DEVON, PENNSYLVANIA

Present:

Mr. G. W. Pepper, U.S. Agent,

Mr. Theodore Paul, Assistant U.S. Agent,

Mr. J. E. Read.

Beginning with Mr. Pepper's confidential letter to Mr. Cotton relating to the *I'm Alone*, I discussed the position of the Canadian Government and pointed out that it would be obviously impracticable to abandon the case at the present stage. I pointed out that Mr. Pepper's primary object, namely, the prevention of unpleasant publicity might be achieved in another way. I indicated that the delay in answering the last U.S. note was due to two things; first, reluctance on the part of the Canadian Government to make any move in the matter until it was able to investigate the questions raised by the newspaper correspondence as to ownership; second, the view advanced by the British Government as to the interpretation of Article IV of the Treaty. I pointed out that it was the opinion of the counsel and of the Government and my own opinion that the proper construction of Article IV was that the preliminary proceeding was intended to be, not a formal arbitration but a much broader investigation. I suggested that there be an enquiry by two Commissioners who would take into consideration all of the facts and legal questions involved and also broader political considerations in order to make a recommendation required by all the circumstances of the case. I suggested



that such procedure would have far greater utility than a preliminary full-dress arbitration, which would be very costly and would prove abortive in nearly every instance.

Mr. Pepper concurred in these views and came to the conclusion that a change of policy would be justified as going back to the Treaty. Accordingly, he is advising his Government that it was decided by a conference of Agents that the Treaty does not justify a preliminary arbitration, but requires a preliminary enquiry along the lines suggested above.

We then considered the matter of referring the question and I suggested that it should take the form of a reference by the Canadian Government to the two Commissioners of the claim of the Canadian Schooner, as set forth in the International correspondence contained in our pamphlet. It was understood that the Commissioners should be convened by the two Governments and instructed that on request particulars of the claim and defence would be furnished by the Agents, together with all other evidence or statements that the Commissioners should see fit to require.

Accordingly, it is proposed that the two Agents submit at the same time, reports to their Governments, and we made a rough draft of such reports. Mr. Pepper is sending me a copy and I shall furnish copies at a later date. The next step will be the tying in of the present international correspondence, and that will be followed by a reference from the Canadian Government to the two Commissioners.

It seems to me that this procedure achieved two objects: First, it established the preliminary hearing as a non-judicial investigation without publicity; second, it made the reference a claim by the Canadian Schooner without pinning it down in any way to stated issues.

404.

*Le sous-secrétaire d'État des États-Unis au ministre aux États-Unis*  
*Under-Secretary of State of United States to Minister in United States*

[Washington,] May 22, 1930

My dear Mr. Minister,

Mr. Pepper has seen Mr. Justice Van Devanter who concurs with him, so now Read, the Canadian Government, Pepper, Van Devanter, and the Department of State are in accord as to the future course to be followed.

Pepper writes me, speaking of Judge Van Devanter:

He is of the definite opinion that a supplemental memorandum should be drawn up by the two Governments specifying with particularity the scope of the duties of the Commissioners.

As I want to be sure we are meeting your views I suggest that they be drafted by Mr. Read or the Canadian authorities and I will see that it is taken up by Pepper or Judge Van Devanter.

One other thing—Judge Van Devanter expressed to us deep regret at the death of Mr. Lafleur and I inferred that it was only Mr. Lafleur's distinguished position at the bar that had reconciled Mr. Justice Van Devanter to serving in this case with any colleague other than a judge of a Canadian high court, and that feeling I can readily understand.

Yours sincerely,

J. P. COTTON

405.

*Le conseiller aux États-Unis au sous-secrétaire d'État  
aux Affaires extérieures*

*Counsellor in United States to Under-Secretary of State  
for External Affairs*

Washington, June 10, 1930

My dear Dr. Skelton,

I am enclosing two copies of an article from *The New York Times* of June 7th, which contains the information that the United States authorities are considering quashing the indictments returned against a number of Canadians at Buffalo on December 3rd, 1928, on charges of conspiring to violate the prohibition laws. This matter, you will recall, was taken up by Mr. Massey informally with the Attorney-General, and last December the Attorney-General told Mr. Massey that he did not feel able to take any action.

We have heard no more of the matter since then until this article appeared in the press. The action now contemplated is stated to be a result of the recent prohibition of the export of liquor to the United States from Canada. The source of the correspondent's information is the Bureau of Prohibition and not the Department of Justice; and until the Department of Justice speaks for itself I think that the accuracy of the report should be treated as doubtful.

The article also contains some expressions of opinion derived from Treasury officials on the effect of the new Canadian law, which may prove to be of some interest to you.

Yours sincerely,

H. H. WRONG

406.

*Le sous-secrétaire d'État aux Affaires extérieures  
au Conseiller aux États-Unis*

*Under-Secretary of State for External Affairs  
to Counsellor in United States*

Ottawa, June 14, 1930

My dear Mr. Wrong,

I have your letter of June 10th, enclosing a *New York Times* article regarding possible dropping of indictments against Canadians charged with conspiring to violate the prohibition laws. As you indicate, the report appears to have no official basis thus far. The endeavour to link the anti-clearance law with the dropping of charges against a few eminent Canadian bootleggers and to present it as a bargain between the two governments, is of course wholly without warrant.

Yours sincerely,

O. D. SKELTON

407.

*Le secrétaire d'État des États-Unis au chargé d'affaires  
aux États-Unis*

*Secretary of State of United States to Chargé d'Affaires  
in United States*

Washington, July 22, 1930

Sir,

I have received your note No. 134 dated July 1, 1930, concerning the case of the schooner *I'm Alone*. You state that His Majesty's Government have recommended the nomination of the Right Honorable Lyman Poore Duff, P.C., Puisne Judge of the Supreme Court of Canada, to act with the Honorable Willis Van Devanter in the reference of the case under Article 4 of the Convention of January 23, 1924, in succession to the late Mr. Eugene Lafleur, K.C., LL.D., D.C.L. You add that, as a result of a conference between the agents of the two governments, His Majesty's Government in Canada have come to the conclusion that it would be more in accordance with the true intent and meaning of Article 4 of the Convention, that the Government should proceed by direct reference to the two persons or Commissioners named.

I agree with the conclusion which your Government has reached with respect to the matter. Accordingly, the Government of the United States is prepared to join with His Majesty's Government in Canada in the submission to the Commissioners of the notes exchanged between the two governments dated respectively March 28, April 9, April 17 and April 24, 1930, provided that this Department's note of February 2, 1927, with its enclosure concerning the

*I'm Alone*, addressed to the Ambassador of Great Britain as the Canadian Legation had not been established in Washington, shall also be included as part of the diplomatic correspondence to be considered by the Commissioners.<sup>1</sup>

When the Canadian claim has been so referred by the action of both governments, it is understood that the Canadian Agent will then be prepared to furnish the Commissioners, on request, with the detailed statement of facts as ascertained by him, and the Agent of the United States, will, upon like request, furnish the Commissioners with an answering statement of facts. With the statement and answering statement before them, the Commissioners in the course of their consideration, will determine what further assistance, if any, the Agents may render them. It is understood that the Agents of both governments will stand ready to produce evidence upon any point or points specified by the Commissioners and to submit arguments, either orally or in the form of briefs, upon any issue of law upon which the Commissioners may desire to consider.

If the Commissioners make a joint report, it is assumed that effect will be given to it in accordance with the Convention. If no joint report can be agreed upon, it will then be for His Majesty's Government in Canada to determine whether there should be a reference of the claim to the Claims Commission pursuant to Article 4 of the Convention.

Accept etc.

HENRY L. STIMSON

408.

*Le chargé d'affaires aux États-Unis au secrétaire d'État  
aux Affaires extérieures*

*Chargé d'Affaires in United States to Secretary of State  
for External Affairs*

DESPATCH 1764

Washington, September 18, 1930

Sir,

I have the honour to submit the following report on the international aspects of the problems of prohibition enforcement in the United States during the last few months, especially as they affect Canada. The smuggling of liquor from abroad has not of late received much public attention. It has dropped almost out of sight amidst the fires of the domestic controversy, which has been growing more intense all year and is concentrated on the two issues of the repeal of the 18th Amendment and the methods of its enforcement so long as it remains a part of the Constitution. In any case there is a disposition to recognize that liquor smuggled from abroad is but a very small fraction of the supply—the Treasury (as reported in Legation Despatch No. 1012 of May 13th) recently estimated the foreign contribution as 3 or 4 per cent. of the total consumption.

<sup>1</sup> Le Canada accepta cette condition.

<sup>1</sup> This stipulation was accepted by Canada.

2. Dealing first with the Great Lakes region, for some time after the Canadian prohibition of the clearance of liquor shipments to the United States came into effect on May 30th last, the press appeared to consider that the problems of border smuggling had been solved by cutting off the supply in Canada. The Administration does not seem fully to have shared this view, since it was announced early in July that 34 new picket boats, specially designed to combat liquor-smugglers, would be put into service by the Coast Guard on the Great Lakes early in September. The strong recommendation which was made to Congress by the President and by the Treasury Department for the enactment of legislation creating a border patrol also showed doubt whether the Canadian action would be effective in ending smuggling across the border.

3. Recently reports have appeared in the press stating that there has been a revival of smuggling on a substantial scale in this region. The seizure of the steamer *Vedas* by the Canadian authorities has been given considerable attention. A conference of Federal officials concerned with prohibition enforcement was held at Detroit during the first part of this month, in order to discuss methods of combating the present difficulties. The Detroit correspondent of the New York Times, in reporting this conference, ended his despatch with the following statement:

Reports of rum-runners moving whole fleets of trucks from the wet Canadian Provinces to rum boats on the Detroit River, Lake Erie and Lake St. Clair have been heard repeatedly.

When the boats moved openly from regular export docks, customs officials had some chance to know just what was going on, because of informers stationed in Ontario, but with the export ban in effect, it was said, they are 'up in the air'. In addition to these troubles it was said that other departments which formerly gave them assistance had been inactive since the export ban went into effect.

4. More attention, however, has been paid to the great increase during recent months in the exports of liquor from St. Pierre-Miquelon, the destination of which is believed mainly to be the United States. Early in July it was reported that the Government of the United States had again approached the French Government, complaining about the large volume of the liquor traffic at these islands, and asking for co-operation in restrictive measures. It was denied, however, in Washington that any new protest had been made; I understand that the last approach to the French Government about two years ago resulted simply in an instruction being issued to the Governor of St. Pierre that he should see that the laws regarding clearance were strictly enforced—a measure totally ineffective for restricting the traffic. Since that date the United States Embassy at Paris has apparently been trying, without success, to secure information from the French Government concerning the consumption of liquor in the islands. I have heard that the United States authorities for a time considered the establishment of a virtual blockade of the islands, but rejected the scheme as unworkable. Failing the assistance of the French Government, it is difficult to see what steps they can take, except



to strengthen the preventive services along their own coasts and to try to break up the large organizations which now seem to control the maritime smuggling traffic.

5. In Legation Despatch No. 925 of April 30th, 1930, reference was made to the increased number of Canadian vessels engaged in the smuggling traffic on the Atlantic Coast. It was stated that during the first four months of this year 30 different British vessels, the great majority of which were registered in Canada, had been observed hovering off the entrance to New York harbour laden with liquor. The most recent reports of the United States Coast Guard show a further increase in this activity. During the month of August alone 26 different British vessels were so reported. Ten of these vessels appear to be newcomers to the smuggling trade, since their names are not on the list of suspected smuggling vessels issued by the British Board of Trade last spring. One is led to infer that the increased activity at St. Pierre is steadily drawing a larger number of Canadian vessels into the traffic. The skilful organization of the smuggling traffic within the United States is shown by the small number of vessels seized in the North Atlantic by the Coast Guard, since the foreign smuggling ships apparently are able to remain a substantial distance from the shore, their movements being directed by illegal radio stations which guide them to their rendezvous on the high seas with fast shore boats.

6. I have heard no more for several months concerning proposals to modify or annul the Liquor Convention of 1924. Treaties in identical form have recently been concluded with Poland and Chile, and are now in force between the United States and the following countries: Belgium, Cuba, Denmark, France, Germany, Great Britain, Greece, Italy, Japan, The Netherlands, Norway, Panama, Poland, Spain, and Sweden. The Chilean treaty is not yet ratified. The negotiation of further treaties identical in form with the British treaty seems to show no great dissatisfaction with its terms.

7. It does not appear from the summary given in the preceding paragraphs that the smuggling traffic in liquor is now likely to cause any acute difficulties between Canada and the United States. The aspect about which I am most apprehensive is the employment of so large a number of Canadian vessels in the traffic. There is always the danger that an encounter with the Coast Guard may result in loss of life on one or on both sides and such an affair would become immediately a startling international incident. That no such incident has taken place since the sinking of the *I'm Alone* eighteen months ago is a matter of good fortune, and this immunity cannot be expected to continue much longer.

8. I shall shortly address to you a further despatch on the movement of opinion in the United States on the subject of prohibition, and on the measures being taken by the Administration for the enforcement of the prohibitory laws.

I have etc.

H. H. WRONG

409.

*Le chargé d'affaires aux États-Unis au secrétaire d'État  
aux Affaires extérieures*

*Chargé d'Affaires in United States to Secretary of State  
for External Affairs*

DESPATCH 2011

Washington, November 15, 1930

Sir,

I have the honour to enclose a copy of a Note<sup>1</sup> which I addressed to the Secretary of State on October 30th, formally submitting for the approval of the Government of the United States the Memorandum specifying the procedure to be followed by the Commissioners appointed to adjudicate the *I'm Alone* claim, which was sent to me under cover of Mr. Read's letter of September 22nd. I also enclose a copy of the Department of State's reply<sup>1</sup> to this Note, dated November 14th, stating that the Memorandum is satisfactory as to the form of procedure to be followed after the submission to the Commissioners of the diplomatic correspondence listed in previous Notes. The exchange of Notes enclosed, therefore, appears to complete the diplomatic negotiations concerning the procedure to be followed in the case.

I have etc.

H. H. WRONG

## PARTIE 3/PART 3

## PÊCHERIES

## FISHERIES

410.

*Le sous-ministre de la Marine et des Pêcheries au sous-secrétaire d'État  
aux Affaires extérieures*

*Deputy Minister of Marine and Fisheries to Under-Secretary of State  
for External Affairs*

Ottawa, January 22, 1926

Sir,

I have to acknowledge a copy of a despatch of the 14th instant from His Majesty's Embassy at Washington covering a copy of a letter of the 11th of this month from the United States Secretary of State, in which he suggests that the conference between representatives of the Canadian and United

<sup>1</sup> Non reproduites.<sup>1</sup> Not printed.

States Governments discuss certain fishery questions be held next month and asks, in the event of this suggestion being agreeable to the Canadian Government, that he be informed as to the date for the conference.

Next month will be suitable to the Canadian Government for the conference, and Tuesday the 16th proximo would be a convenient date. The conference will be attended by the undersigned and the Director of Fisheries on behalf of Canada.

This Department will be obliged if you will be good enough to request His Majesty's Ambassador to arrange for the conference on the above date.

I am etc.

A. JOHNSTON

411.

*Le sous-ministre de la Marine et des Pêcheries au ministre  
de la Marine et des Pêcheries*

*Deputy Minister of Marine and Fisheries to Minister  
of Marine and Fisheries*

Washington, February 16, 1926

Dear Mr. Cardin,

In accordance with the arrangement concluded some time ago, Mr. Found and myself conferred with representatives of the United States Government at the State Department here at 10 a.m. today. The Department of State and the Department of Commerce of the United States were represented at the conference. We were received by Mr. Grew, Assistant Secretary of State, who welcomed us to the conference and expressed the hope that personal contact between the officers responsible for the administration of the fisheries in both countries would result in a better understanding of the several matters that have for some time been somewhat controversial.

The conference having been organized, I was invited to express the view of the Department, both as regards the situation on the Pacific Coast and on the Atlantic Coast. This I did as briefly as possible, placing our position fully and in detail before the United States representatives. I endeavoured to point out that the situation on the Pacific Coast, more particularly that which obtains at Prince Rupert, is one that had caused the Department a good deal of concern for some time. Halibut fishermen on the Pacific Coast, more especially those operating with Prince Rupert as a base, had for years complained that whereas United States halibut fishermen enjoyed all the advantages that Prince Rupert and other British Columbia ports could afford, no compensating privileges insofar as Canadian halibut fishermen were concerned, were received in return. I pointed out that the maintenance of a duty of 2¢ per lb. by the United States against Canadian caught fish had the result in practice of

seriously depressing the price obtained by Canadian fishermen for their catches, not only in the United States market but as well in the domestic market.

We are maintaining a duty of 1¢ per lb. against United States caught halibut and I urged as a matter of fairness that the United States authorities should reduce the duty maintained by them to a parity with ours. It is competent for the United States Government to reduce the duty by this amount without Congressional action and I expressed the hope that the report of the United States Tariff Commission recently filed, would afford the United States Government ample warrant for such reduction. Many of those who are interested in the development of the Canadian end of the industry are of the opinion that it would be desirable if possible to secure the elimination of duties on both sides. I was not, however, in a position to even suggest the possibility of eliminating the duty of 1¢ per lb. maintained by us against foreign caught fish. Any such suggestion could properly only be made after the matter had been fully and carefully considered by the Government. I did, however, suggest that in the event of the United States Government resolving to reduce the United States duty to the same rate as the Canadian duty, consideration might subsequently be given to the question as to whether or not the conditions on both sides would warrant the elimination of duties by both Governments.

I also pointed out that another question that occasioned considerable complaint in British Columbia ports was the interpretation placed by the United States authorities upon certain phases of their shipping and tariff legislation. I pointed out what appeared to us to be the anomaly of vessels of the United States engaged in the cod fishery or the herring fishery for instance, being permitted to purchase equipment etc. at Canadian ports without having such equipment subjected to a duty at United States ports, whereas vessels engaged in the halibut fishery are precluded from purchasing at Canadian ports any equipment only on the condition that such equipment as may be purchased shall be subjected to a duty of 50% upon the first arrival thereafter of the vessel at a United States port. I urged that vessels engaged in the halibut industry should be classified by the United States authorities in the same manner as vessels engaged in the cod or other fishery.

The legal representative of the State Department, who was in attendance at the conference, pointed out that the matter had received full consideration by the Department of State and that having regard to the terms of the Statute, no other interpretation was possible. He agreed that the Statute in question was upwards of one hundred years old, and that at the time of its passing, there was no such industry in existence as a halibut fishery, otherwise provision would doubtless have been made for it as for the cod fishery. To remedy this matter, Congressional action, he pointed out, would be necessary and he in effect gave an undertaking that the matter would receive further consideration. He was careful, however, to point out that he could not express any opinion as to whether in the last analysis the conclusion that would be reached would be favourable to our contention or otherwise.



In addition to the foregoing, there is the question of the Fraser River fisheries in which we are so vitally interested. This matter, we were given to understand, is progressing favourably and the hope was expressed that they would be able to advise us in the course of a short time that all difficulties in the way of concluding a satisfactory treaty had been overcome.

I then passed on to a consideration of the questions affecting us on the Atlantic seaboard. I pointed out that the privileges extended to United States fishermen under what was known as the *Modus Vivendi* licenses, were only withdrawn two years ago, after we had reluctantly reached the conclusion that there did not appear to be any desire on the part of the Government of the United States to afford us any compensating privileges in return. I pointed out further that although these privileges were withdrawn some two years ago, that in the meantime a very considerable number of applications had reached the Department from time to time from United States fishermen who for various reasons desired to enter Canadian ports in order to secure some privilege. This, I endeavoured to point out, indicated that the privileges that we had extended in times past to United States fishermen were of practical value, and being of practical value we were entitled to some compensation in return. Whether there will be a return to the system of *Modus Vivendi* licenses by the Canadian Government is a matter for subsequent determination. You will doubtless recall that numerous representations have been made to us to the effect that the policy adopted by us of discontinuing these privileges was a mistaken one. On the other hand, representations have been made to the effect that the policy was a proper one to adopt in the premises and that it should be adhered to. Throughout the Maritime Provinces, more particularly in the Province of Nova Scotia, there is a fairly sharp division of opinion as to the policy that ought to be pursued. In discussing the matter before the conference today, I carefully abstained from conveying any impression that there was any difference of opinion among our own people on this matter, and I intimated very clearly that we would be opposed to restoring the licenses without obtaining some satisfactory compensation in return. If for any reason it should be found desirable hereafter to revert to the issue of *Modus Vivendi* licenses, we should obtain similar privileges for Canadian fishing vessels in the ports of the United States. There again the representative of the State Department pointed out that action by the Congress would be necessary to secure these privileges for our vessels. He would, however, submit the matter for the consideration of the Secretary of State.

The foregoing outlines in brief the proceedings of the conference. I recognized from the beginning that those who participated in the conference as representing the Government of the United States, would not be in a position to express an off-hand opinion with respect to the various proposals submitted. I am satisfied, however, that without any undue delay, the representations made by Mr. Found and myself will be put in shape and submitted for the consideration of the responsible officers of the United States Government. Without appearing to be insistent, I urged that the matter should receive early consideration. It was agreed all around that our repre-



sentations having been fully made, no useful purpose would be served by our remaining here any longer. Consequently we are arranging to report to His Majesty's Ambassador here in a general way what took place at the conference and to return to Ottawa forthwith.

I am forwarding under separate cover a copy of this communication in the event that you may think it desirable to forward it to the Right Honourable, The Prime Minister for his information.

I have etc.

A. JOHNSTON

412.

*Le Gouverneur général à l'ambassadeur britannique aux États-Unis*  
*Governor General to British Ambassador in United States*

DESPATCH 157

Ottawa, August 10, 1926

Sir,

With reference to Sir Auckland Geddes' despatch No. 137 of 24th May, 1922<sup>1</sup>, in which he intimated that, as requested by the Canadian Government, he had pressed upon the attention of the United States Government the desirability of ensuring proper protection to the Fraser River sockeye salmon fisheries, I have the honour to inform Your Excellency that attention is called by the Department of Marine and Fisheries to the fact that, while subsequently a treaty for the protection and rehabilitation of the Pacific halibut fishery was concluded, the Fraser River situation, which offers much greater possibilities for the achievement of the end in view by international co-operation, remains unchanged.

It is intimated that as the result of the fish culture operations carried on by the Department in a somewhat small way for some years past in the Stuart Lake region, last year, for the first time since the slide in the River at Hell's Gate in 1913, an important number of sockeye salmon returned to the upper waters of the Fraser, thus indicating that by adequate international co-operation the River can be brought back to a maximum of productivity.

It is estimated that at present prices this would involve a production of sockeye salmon alone worth more than thirty-five million dollars annually, instead of one worth about two and a half million dollars to both countries.

My Government will be grateful if Your Excellency will bring these views to the notice of the United States Government and invite that Government to take into early consideration the possibility of arranging for the suggested co-operation.

I have etc.

BYNG OF VIMY

<sup>1</sup> Voir Volume 3, document 612.

<sup>1</sup> See Volume 3, Document 612.

413.

*Le sous-secrétaire d'État aux Affaires extérieures au ministre  
aux États-Unis*

*Under-Secretary of State for External Affairs to Minister  
in United States*

DESPATCH 7

Ottawa, February 28, 1927

Sir,

With reference to a despatch from His Majesty's Ambassador at Washington to His Excellency the Governor General, dated 14th October, 1925, copy of which is enclosed, transmitting copy of a communication from the United States Department of State explaining that with a view to meeting the desire of the Canadian authorities that steps be taken by the United States Government to ensure that the United States fishing craft would in future confine the use they make of such ports to the privileges to which they are legitimately entitled, official public notice had been issued at Neah Bay, warning United States fishermen that the Canadian authorities desire that the United States fishing craft should not visit Canadian ports unless to seek shelter from severe weather or to make urgent necessary repairs and that no supplies should be purchased therein other than wood and water, I have the honour to represent that the above notification has not been observed by United States craft. During the past year a number of these vessels resorted nightly to Canadian harbours and particularly to Ucluclet and Clayoquot, Vancouver Island, notwithstanding that from a weather standpoint there was no need for them doing so.

Such use by these boats of Canadian harbours enables them to engage in fishing in the nearby extra-territorial waters as conveniently and economically as the Canadian boats, which is unfair to the latter, particularly when there is a duty of two cents a pound on the catches of the Canadian boats going into the United States, which of course does not apply to the United States boats.

I am to state that while the need for such action would be regretted, the Canadian Department of Marine and Fisheries considers that if United States fishing boats continue so to use Canadian ports during the approaching season, which will open actively in April, there will be no option but to take measures to prevent such use, including if need be seizure of the boats violating the regulations.

I am to request that you will be good enough to bring this matter to the attention of the Government of the United States.

I have etc.

O. D. SKELTON

414.

*Le secrétaire d'État des États-Unis au ministre aux États-Unis*  
*Secretary of State of United States to Minister in United States*

Washington, April 20, 1927

Sir,

With further reference to the Legation's note No. 11 of March 4, 1927, relating to the alleged unauthorized use of certain Canadian ports by American fishing vessels, I have the honor to inform you that the appropriate authorities of this Government are calling to the attention of American fishermen who may engage in fishing off the coast of Vancouver Island, the limitations on the use of Canadian ports by them and are warning them against making unwarranted use of such ports.

Accept etc.

FRANK B. KELLOGG

415.

*Le chargé d'affaires aux États-Unis au secrétaire d'État*  
*aux Affaires extérieures*  
*Chargé d'Affaires in United States to Secretary of State*  
*for External Affairs*

DESPATCH 458

Washington, July 14, 1927

CONFIDENTIAL

Sir,

With reference to my despatch No. 433 of July 7th. 1927, with which I forwarded a copy of a note from the Department of State regarding the protection and rehabilitation of the salmon fisheries of the Fraser River, I have the honour to inform you that, in response to an invitation, I discussed this question today with Mr. Castle, one of the Assistant Secretaries of State.

Mr. Castle emphasised the desire of the Government of the United States to co-operate with the Government of Canada in establishing effective methods of protection for the salmon fisheries. He authorized me to inform you confidentially of the character of the "certain local obstacles" which were stated to be the reason for the delay on the part of the United States Government in Mr. Kellogg's note of March 14th. 1927. It appears that the United States Government has in mind the creation of an International Commission of six members, three representing each country. Senator Jones of Washington has been insistent that, if such a Commission were created,

two of the three members for the United States should be appointed by the President on the nomination of the Governor of the State of Washington. For obvious reasons the Department of State is not prepared to fall in with this suggestion. Mr. Castle told me that Mr. Kellogg had discussed the question with Senator Jones on several occasions, and that he hoped that before long Senators Jones' objections to the appointment of the Commissioners by the President direct would disappear.

I have etc.

H. H. WRONG

416.

*Le chargé d'affaires aux États-Unis au secrétaire d'État des États-Unis*

*Chargé d'Affaires in United States to Secretary of State of United States*

No. 216

Washington, August 12, 1927

Sir,

With reference to your note No. 711,428/1094 of April 20th, 1927, stating that the appropriate authorities of the Government of the United States were calling to the attention of American fishermen engaging in fishing off the coast of Vancouver Island the limitations on the use of Canadian ports and warning them against making unwarranted use of such ports, and with reference to previous correspondence on the same subject, I have the honour to represent that the Canadian Government finds that several United States fishing boats, after having been warned, continue to resort to such ports for purposes not allowed by any treaty or convention . . . .

The competent authorities of the Government of Canada would very greatly regret to find it necessary to take drastic action against any of these boats, but as they have failed to be guided by warnings there appears to be no alternative to seizure. In order to give ample opportunity for a final warning through the appropriate Department of the United States Government, no action will be taken before the 5th of September, but instructions have been given by the competent authorities of the Government of Canada that after that date any such boats found in Canadian ports for purposes not authorized by law, treaty or convention are to be seized.

I have the honour to represent that I have been instructed to bring this information to your attention.

I have etc.

LAURENT BEAUDRY

417.

*Le secrétaire d'État des États-Unis au chargé d'affaires aux États-Unis*  
*Secretary of State of United States to Chargé d'Affaires in United States*

Washington, August 23, 1927

Sir,

With reference to the Legation's note No. 216 of August 12, 1927, I beg to inform you that the appropriate authorities of this Government have given official public notice to American fishermen who may engage in fishing off the coast of Vancouver Island, of the treaty limitations on the use of Canadian ports, and have warned them that instructions have been given by the competent Canadian authorities that after September 5, 1927, any boats found in Canadian ports for purposes not authorized by law, treaty or convention, are to be seized.

Accept etc.

NELSON TRUSLER JOHNSON  
for the Secretary of State

418.

*Le secrétaire d'État aux Affaires extérieures au ministre aux États-Unis*  
*Secretary of State for External Affairs to Minister in United States*

TELEGRAM

Ottawa, May 29, 1928

International Fisheries Commission established under Article 3 Halibut Fishery Treaty with United States 2nd March 1923, has submitted first report on results of investigation into life history of Pacific halibut including recommendations for regulation of fishery. Canadian Government has formally approved recommendations and is prepared to adopt necessary regulations to put them into effect provided that United States Government takes similar course. Please inform Secretary of State to that effect and as early publication of report considered desirable ascertain if United States Government would concur in publication on 1st June next.

419.

*Le ministre aux États-Unis au secrétaire d'État aux Affaires extérieures*  
*Minister in United States to Secretary of State for External Affairs*

TELEGRAM

Washington, August 3, 1928

Your telegram 29th May. United States Government approves report of International Fisheries Commission, but consider that new treaty is desirable



in order to carry out recommendations. The Secretary of State suggests that the Commission be authorized to review the recommendations and suggest draft of technical section of treaty at its September meeting.

420.

*Le secrétaire d'État aux Affaires extérieures au chargé d'affaires  
aux États-Unis*

*Secretary of State for External Affairs to Chargé d'Affaires in United States*

DESPATCH 390

Ottawa, August 21, 1928

Sir,

With reference to your telegram of the 3rd instant and your despatch No. 1168 of the 4th instant regarding the suggestion of the United States Secretary of State that a new treaty to replace the existing treaty, signed at Washington, 2nd March 1923, regarding the North Pacific Halibut Fishery, should be negotiated for the purpose of giving effect to the recommendations of the International Fisheries Commission, I have the honour to state that the Minister of Marine and Fisheries considers that so far as Canada is concerned the recommendations of the Commission could be made effective by Order-in-Council under the existing treaty and legislation, but as the United States Government finds that it will require additional authority, Canada will have no objection to replacing the existing treaty by a new one. It is not apparent however that any technical section would be needed to give effect to the recommendations of the Commission. These recommendations are that the proper governmental authorities be given power to establish areas in each of which a limitation as to the total quantity of fish that may be taken therefrom may be fixed, and that such limitation may be reduced from time to time as found necessary; that certain areas be closed to all fishing; that the use of certain types of fishing gear be prevented; that the existing close season provided by the treaty be modified and that vessels engaging in the fishery in treaty waters be licensed, so as to assure obtaining adequate statistical data.

It is understood that the United States Secretary of Commerce has the necessary powers to give effect to these recommendations in connection with the regulation of the salmon fisheries of Alaska, so that if he or some other United States authority and the Governor in Council in Canada were given power to make regulations recommended by the Commission, and approved by the two Governments, the end in view would be achieved. I would ask you to communicate the views as above set forth to the Secretary of State.

It might be added that the Department of Marine and Fisheries thinks it unlikely that a meeting of the full Commission can be held in September.

I have etc.

W. H. WALKER  
for the Secretary of State  
for External Affairs

421.

*Le ministre des États-Unis au secrétaire d'État aux Affaires extérieures*  
*United States Minister to Secretary of State for External Affairs*

No. 274

Ottawa, December 5, 1928

Sir,

I have the honor to acknowledge the receipt of your note of December the first, enclosing copies of the draft Treaty for the Protection of the Fraser River System of Sockeye Salmon Fisheries as approved by the Canadian Government, and to refer to the communication from the Under-Secretary of State to the Counselor of the Legation under date of December third, stating that he is authorized to say that it would be satisfactory to the Canadian Government to substitute for the first paragraph in Article II three paragraphs as follows:

(1) The High Contracting parties agree to establish and maintain a Commission to be known as the International Pacific Salmon Fisheries Commission, hereinafter called the Commission, consisting of six members, three on the part of the United States of America, and three on the part of the Dominion of Canada.

(2) The Commissioners on the part of the United States shall be appointed by the President of the United States, and one shall be the Commissioner of Fisheries of the United States and the other two shall be at all times residents and citizens of the State of Washington.

(3) The Commissioners on the part of the Dominion of Canada shall be appointed by His Majesty on the recommendation of the Governor-in-Council.

The Legation has taken note of the contents of the second paragraph of your note of December first and, in forwarding to the Department of State a copy of the draft treaty contained therein as amended by Dr. Skelton's letter of December third, above mentioned, has requested to be informed by the Department whether this amended draft is acceptable to the Government of the United States and, if so, whether it would be possible to proceed with the signing of a treaty in time to permit of consideration by the Senate and by Parliament during the coming Sessions. In this connection the Legation has likewise advised the Department of State of your wish to know the name of the plenipotentiary who would sign the treaty<sup>1</sup>, if agreed upon, on behalf of the President of the United States, and the desires so far as my Government is concerned with respect to the place of signing.

I avail myself etc.

WILLIAM PHILLIPS

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<sup>1</sup> Voir document 325.

<sup>1</sup> See Document 325.

422.

*Le sous-ministre de la Marine et des Pêcheries au sous-secrétaire d'État  
aux Affaires extérieures*

*Deputy Minister of Marine and Fisheries to Under-Secretary of State  
for External Affairs*

Ottawa, February 18, 1929

My dear Doctor Skelton,

Adverting to the last sentence in your letter of the 14th instant, with regard to the halibut situation on the northern Pacific coast, I think it well to emphasize that the continuance of the existing tariff situation could not be regarded as satisfactory. It will be recalled that some years ago we urged that the existing duty of 2¢ a pound into the United States on Canadian halibut was unfair to the Canadian industry, particularly when the United States fishing vessels were being given the facilities in our ports there that they have enjoyed for so many years past.

The United States Government agreed to a conference on this and other subjects, but first urged that there should be an investigation by the Tariff Commission into the relative costs of producing halibut in both countries. That investigation showed that the advantage in the cost of production was with the United States, so far as the Pacific halibut fishery is concerned. The conference was held in 1926, but, while it seemed to be satisfactory, no action has since been taken by the United States to better the conditions. It was because of this, amongst other things, that a new conference was urged in this Department's letter to you of a few days ago.

Yours truly,

WM. A. FOUND

423.

*Le secrétaire d'État aux Affaires extérieures au ministre aux États-Unis*  
*Secretary of State for External Affairs to Minister in United States*

DESPATCH 75

Ottawa, February 27, 1929

Sir,

It will be recalled that as a result of prolonged discussion a conference between representatives of Canada and the United States was held in Washington on the 26th of February, 1926, to discuss the possibility of arranging a satisfactory settlement of the fisheries questions outstanding between the two countries. It was agreed at that conference that the matters discussed would be further considered by the United States Government, following which a communication could be addressed to the Canadian Government. Up to the present no such communication has been received by this Government.

In view of the conditions under which the fisheries are conducted, it is inevitable that they should be a source of international difficulties unless a full and comprehensive agreement is reached as to the rights, privileges, and methods to be exercised by the vessels and nationals of each country. The desirability of reaching such an accord need not be emphasized.

The fisheries of Canada and the United States are so intimately related that in certain instances they cannot be conserved and properly developed, except by co-operative action by the two countries. A realization of this fact has already resulted in the Pacific Halibut Treaty. The more that is learned regarding the life history of the different species of Pacific salmon, the clearer it is becoming that,—apart altogether from the Fraser River system, where the need for international action is recognized and a treaty to provide for it is being negotiated,—co-operative effort in extra-territorial waters is essential to the proper conservation and conduct of these fisheries. The development of quick freezing seems to leave no room for doubt that fresh fish, in as good condition as when it was removed from the water, can be economically sent, not only to all parts of this continent, but practically to all parts of the world. This must surely result in making the main problem for all concerned, in the very near future, one of obtaining adequate supplies, rather than of markets.

That the present situation is unsatisfactory and is likely to lead to embarrassing difficulties is evidenced by the fact that on the Atlantic United States vessels are constantly applying for special privileges in waters and ports under the jurisdiction of the Canadian Government. Such privileges were, in fact, granted as a result of applications received through United States consular or other governmental officials to some twenty-six United States vessels there in 1927. On the Pacific coast, notwithstanding repeated warnings, it recently became necessary to seize certain United States salmon trolling boats to prevent the unlawful use of Canadian ports. In protesting against these seizures the Association of Trolling Vessel Owners (a United States organization) stated, in substance, that the strict enforcement of existing treaty requirements would make it impossible for them to carry on their industry with success.

It is equally evident that the termination of the privileges now granted to United States halibut vessels on the Pacific coast would have a most serious effect upon that industry. This fact has recently been made very clear by the statements of the United States Fishing Vessels Owners' Association. On the other hand, the continuance of these privileges under existing conditions is for obvious reasons unsatisfactory to the Canadian fishing vessels there.

It is the opinion of the Canadian Government that the problem of maintaining an adequate supply of marine products will shortly become the most important problem facing the industry in both countries, though the question of reciprocal access to markets is a phase of the situation which appears to require consideration.

Having regard to the importance from all standpoints of a satisfactory solution of outstanding fishery questions being found, and in consideration of

the development which have taken place since the previous conference in 1926, the Canadian Government desires to learn whether the Government of the United States would be prepared to participate in a further conference between fully accredited representatives of the two governments. Keeping in view the approach of another fishing season, this Government would suggest some date in March or early in April as a suitable occasion for the convening of such a conference.

I should be glad if you would bring the purport of this despatch to the attention of the appropriate authority of the United States Government, with a view to securing an early expression of its views.

I have etc.

O. D. SKELTON

for the Secretary of State  
for External Affairs

424.

*Le ministre aux États-Unis au secrétaire d'État aux Affaires extérieures*  
*Minister in United States to Secretary of State for External Affairs*

TELEGRAM

Washington, March 21, 1929

A revised draft of Salmon Protection Treaty has been received from the Secretary of State today and forwarded to you by bag. Mr. Kellogg would like to sign Treaty before he leaves office which will probably be next (Tuesday). The State Department has been informed that approval by the Canadian Government of the revised draft by that date is improbable, but that you would be notified of Secretary of State's desire.

425.

*Le ministre aux États-Unis au secrétaire d'État aux Affaires extérieures*  
*Minister in United States to Secretary of State for External Affairs*

TELEGRAM

Washington, March 22, 1929

In confirmation of yesterday's telephone conversation, the following alternative preamble for Salmon Treaty is suggested. Begins. His Majesty The King of Great Britain, Ireland, the British Dominions beyond the Seas, Emperor of India, and the President of the United States of America, recognizing that protection, preservation and extension of the Sockeye Salmon Fisheries in the Fraser River system are of common concern to the Dominion of Canada and the United States; that the supply of this fish in recent years has been gravely depleted, and that it is of the utmost importance in mutual interest of both countries that this source of wealth should be restored and maintained, have resolved to conclude a Convention and to that end have (appointed) as their respective Plenipotentiaries; Ends.



If Treaty cannot be signed Tuesday morning signature may be long delayed on account of change of Secretary of State. In order to engross Treaty for signature Tuesday, State Department desire notification by noon Monday. If preamble and early Articles are first approved, their engrossing could begin, while later Articles still under discussion in Ottawa.

426.

*Le ministre aux États-Unis au secrétaire d'État aux Affaires extérieures*  
*Minister in United States to Secretary of State for External Affairs*

TELEGRAM

Washington, March 26, 1929

RUSH. PRIORITY. URGENT. Signature will not take place until eleven Wednesday. Summary of provisions of treaty will be issued at that hour by State Department but not full text. Summary not yet prepared and I suggest separate summary be issued in Ottawa then.

427.

*Le secrétaire d'État des États-Unis au ministre aux États-Unis*  
*Secretary of State of United States to Minister in United States*

Washington, April 3, 1929

Sir,

I have the honor to refer to your note No. 34, dated March 2, and the Department's acknowledgment of March 8, 1929, in regard to the desire of your Government to learn whether the United States Government would be prepared to participate in a conference between representatives of the two Governments to discuss fisheries questions outstanding between the United States and Canada.

As stated in the Department's note of March 8, your note was brought to the attention of the appropriate authority of this Government, and a response dealing with this matter has now been received.

It is the opinion of the competent authorities of this Government that the outstanding fisheries questions between the United States and Canada are essentially questions of the proper husbandry of the resources in international waters. Reference in this regard is made to the salmon fisheries situation in the Fraser River, which was dealt with in a treaty signed in this city on March 27 last, and to the matter of the halibut fishing industry, concerning which a new treaty between the two Governments is now being negotiated with the view to placing further essential safeguards around that fishery to insure its maintenance. Mention should also be made of the Great Lakes fisheries which are seriously depleted and which must yield, sooner or later, to more centralized control if they are to be maintained.

The agreements which have already been reached between Canada and the United States concerning the salmon and halibut fisheries have demonstrated

the efficacy of dealing with single phases of the fisheries question independently. It is, therefore, deemed inadvisable by the competent authorities of this Government to undertake a general discussion of the fisheries situation pending the conclusion of the new treaty governing the halibut fishing industry which is now under consideration. I need hardly add, however, that this Government is entirely agreeable to undertaking concurrently with the consideration of the halibut treaty an independent discussion of the Great Lakes fisheries, or of similar phases of the fisheries question.

Accept etc.

W. R. CASTLE, JR.  
for the Secretary of State

428.

*Le secrétaire d'État aux Affaires extérieures au ministre aux États-Unis*  
*Secretary of State for External Affairs to Minister in United States*

DESPATCH 146

Ottawa, April 29, 1929

Sir,

I have the honour to refer to your despatch No. 817 of April 3rd, 1929, regarding the question of a Conference to discuss a settlement of outstanding fishery problems between Canada and the United States.

From the correspondence exchanged between the two Governments and the nature of the Conference held at Washington on February 26th, 1926, it would appear that these problems go beyond the scope of the husbandry of fisheries resources in international waters in which the two countries are interested, important as this matter is. It is observed that the United States Government deem it inadvisable to undertake a general discussion of the fisheries situation, pending the conclusion of the treaty to amend, supplement or supersede the Halibut Fishery Treaty of 1923, for the purpose of making recommendations of the International Fisheries Commission effective.

As may be observed from my despatch No. 147 of even date, regarding the question of negotiating a treaty for this purpose, the Canadian authorities find it difficult to see in what way the proposed treaty would be involved in such general discussion, as the only reason for suggesting a treaty is that the United States Government have found it impossible to put into effect by any other means the recommendations of the International Fisheries Commission, which both Governments have approved under the existing treaty and the legislation relating thereto. As pointed out in our despatch already mentioned, it is considered important that the proposed treaty be concluded without delay, so that the work of the International Commission may proceed as originally contemplated.

It is desired to suggest that the proposal for a Conference on the outstanding fishery questions generally be revived after the signature of the proposed Halibut Treaty.

I would accordingly ask you to inform the United States Government in this sense.

I have etc.

O. D. SKELTON  
for the Secretary of State  
for External Affairs

429.

*Le secrétaire d'État aux Affaires extérieures au ministre aux États-Unis*  
*Secretary of State for External Affairs to Minister in United States*

DESPATCH 147

Ottawa, April 29, 1929

Sir,

I have the honour to refer to your despatch No. 232 of January 29th, 1929, and previous correspondence regarding the question of negotiating a treaty to amend, supplement or supersede the Halibut Fishery Treaty of 1923, for the purpose of giving effect to the recommendations of the International Fisheries Commission.

In the note of April 3rd, 1929, from the Secretary of State, which is a reply to your note No. 34 of March 2nd dealing mainly with the question of a proposed Conference between duly accredited representatives of Canada and the United States to consider a settlement of outstanding fishery problems, it is stated that the United States Government are agreeable to undertaking concurrently with the consideration of the question of a treaty to amend, supplement or supersede the Halibut Fishery Treaty of 1923, an independent discussion of the Great Lakes fisheries, or of similar phases of the fisheries question.

The Halibut Fishery Treaty, which was ratified on October 21st, 1924, made certain provisions relating:

(a) to the appointment of an International Commission to make a thorough investigation into the life history of the North Pacific halibut and to submit recommendations for its proper regulation, and

(b) to the establishment of a close season for halibut fishing in the waters covered by the treaty, from the sixteenth of November in each year to the fifteenth of February following, both days inclusive, which might be modified or suspended at any time after three years by a special agreement between the High Contracting Parties.

The International Commission thus appointed submitted its first report to the two Governments early in 1928 and made five recommendations looking to the protection of the fishery, one of which was to extend the existing close period.

The report and recommendations of the International Commission were approved by the Governments of both Parties. The United States Secretary of

State, in his note of August 2nd, 1928, to the Canadian Chargé d'Affaires at Washington, explained that in order to put the recommendations into effect a treaty was deemed necessary. As far as Canada is concerned, our legislation with regard to the existing treaty is considered to be adequate to put the recommendations of the International Commission into effect, so that the necessity of further action to make the recommendations of the International Commission effective arises in the United States.

There only remains to be taken action in the form of a treaty aiming at making effective the recommendations of the International Commission thus approved, and there appears to be no doubt that such action should be taken at an early date in order that the work of the International Commission be proceeded with as soon as possible.

The Canadian authorities see no objection to undertaking at any time an independent discussion of the Great Lakes fisheries or of other similar phases of the fisheries question. In this connection, however it is desired to suggest that this subject, as well as the proposal for a Conference regarding a settlement of outstanding fishery problems which go beyond the husbandry of fisheries resources in international waters in which the two countries are interested, be revived after the negotiation of the treaty to give effect to the recommendations of the International Commission.

I would accordingly ask you to inform the United States Government in the light of these facts and views and express our earnest hope that they may see their way clear to have action on the proposed treaty taken at an early date, so that the recommendations of the Commission, which have been approved by both Governments, can be made effective.

I have etc.

O. D. SKELTON  
for the Secretary of State  
for External Affairs

430.

*Le ministre aux États-Unis au secrétaire d'État aux Affaires extérieures*  
*Minister in United States to Secretary of State for External Affairs*

DESPATCH 1302

Washington, May 22, 1929

CONFIDENTIAL

Sir,

With reference to the United States duty on halibut, I have the honour to state that among the Tariff Commission reports submitted to the Senate on the 18th May in response to a Senate Resolution was the report of the investigation for the Department of State of the costs of production of halibut in the United States and Canada.

2. This report—according to the letter of transmittal forwarded with the reports—“was desired for use in connection with negotiations pending between the Governments of the United States and of Canada and has been held in confidence in accordance with the expressed suggestion of the Secretary of State.”

3. It is recalled that on the 6th April, 1926, Dr. Alfred P. Dennis, Vice-Chairman of the United States Tariff Commission, testifying before a special committee of the Senate held that the findings of the Commission did not warrant the retention of a duty of two cents per pound on halibut in order to equalize costs. Copies of an excerpt from the “United States Daily” of the 12th April, 1926, respecting the statement by Dr. Dennis, are enclosed herewith.<sup>1</sup>

4. With a view to having the halibut tariff rate considered as fully as possible by the Senate Finance Committee when the Tariff Bill is taken up by that body, a member of my staff took advantage of an opportunity to discuss the matter at considerable length yesterday with the Honourable Mr. Sutherland, delegate from Alaska. Mr. Sutherland is familiar with the situation at Prince Rupert and, although he did suggest to the Committee on Ways and Means that no change be made in the present rate on halibut, he frankly stated to a member of my staff that if continuation of the United States duty is likely to result in the termination of the privileges now granted by Canada to United States halibut vessels he would be in favour of action at this Session of Congress to have halibut placed on the free list.

5. As the discussion continued it was developed that a number of owners in the American halibut fleet have intimated to Mr. Sutherland that they would not offer any objection to the removal of the duty provided that they continue to receive the privileges now granted their vessels at Prince Rupert. Moreover, Mr. Sutherland stated that he believes the owners of the Canadian halibut fleet would find no difficulty in prevailing upon a number of the owners of American halibut vessels to communicate to him recommendations for prompt removal of the duty to the end they may continue to enjoy the privileges of the port of Prince Rupert.

6. Mr. Sutherland stated he was prepared to submit to the Senate Subcommittee at private hearings on the tariff any such letters received.

7. It is anticipated that the Senate Committee on Finance will take up the Agricultural Schedule of the tariff about the middle of June.

8. On the 6th May, 1929, the Honourable the Minister of Finance addressed a communication to me transmitting a copy of a resolution passed by certain city organizations at Prince Rupert regarding the subject under

<sup>1</sup> Non reproduit.

<sup>2</sup> Not printed.



reference. Mention is made here of the communication in case you may care to transmit a copy of this despatch to the Honourable the Minister of Finance.

I have etc.

VINCENT MASSEY

431.

*Le chargé d'affaires aux États-Unis au sous-secrétaire d'État  
aux Affaires extérieures<sup>1</sup>*

*Chargé d'Affaires in United States to Under-Secretary of State  
for External Affairs<sup>1</sup>*

Washington, August 2, 1929

My dear Dr. Skelton,

I wonder if it would be possible for the Department to furnish us with further information concerning the intentions of the Government in the International Fishery questions which have been brought to the attention of the United States Government. On March 2nd last we suggested to the State Department that an immediate conference should be held on all outstanding Fishery questions. On April 3rd they answered in a Note which appeared to beg the question and which suggested, in place of the general conference, separate discussions of individual Fisheries. On May 6th we replied, pointing out that the discussion of individual Fisheries would not cover the problems which we had in mind, stating at the same time that we were ready to undertake such discussions, but renewing the proposal for a general conference.

To the last Note we have had no reply, though the matter has been taken up verbally with the State Department. Mr. Massey spoke about it to Mr. Stimson on July 25th last. I imagine that those in authority here do not want the question of port facilities opened up, and that this accounts for the line which they took in their Note of April 3rd. To judge from the correspondence in the files of the British Embassy for 1926 and previous years, together with the discussions during the last session of Parliament and the comments of the Canadian Press, the question of port facilities is by far the most important point at issue. I observe that in this year's correspondence with the State Department we have refrained from mentioning this question directly,—an attitude in marked contrast to that which was taken during the previous negotiations which petered out in 1926.

<sup>1</sup> Il semble qu'on n'ait pas donné suite à cette lettre par écrit.

<sup>1</sup> There appears to be no written reply to this letter.

I am rather in doubt as to how energetically the question of the general conference should be pressed with the State Department, and as to the position which should be taken in any informal discussions which may take place. I should therefore appreciate fuller information on the matter.

Yours sincerely,

H. H. WRONG

432.

*Le secrétaire d'État des États-Unis au chargé d'affaires aux États-Unis*  
*United States Secretary of State to Chargé d'Affaires in United States*

Washington, August 8, 1929

Sir,

I have to acknowledge the receipt of the Minister's note No. 79 dated May 6, 1929, in regard to fisheries questions outstanding between the United States and Canada, which has been brought to the attention of the appropriate authority of this Government.

I regret that due to the fact that the correspondence inadvertently became attached to some unrelated papers, the note was not acknowledged sooner.

Accept etc.

W. R. CASTLE, JR.  
 for the Secretary of State

433.

*Le secrétaire d'État par intérim des États-Unis*  
*au ministre aux États-Unis*

*Acting Secretary of State of United States to Minister in United States*

Washington, [no date]

Sir,

Referring to my note of January 4, 1930, by which I informed you that this Government desired to propose a revised convention in substitution of the convention for the protection, preservation and extension of the sock-eye salmon fisheries of the Fraser River system, signed by you and the Secretary of State on March 27, 1929, I now have the honor to transmit to you, for submission to your Government, the revised draft.<sup>1</sup>

<sup>1</sup> Non reproduit.

<sup>2</sup> Not printed.

The necessity for the revision of the convention signed in 1929 arose out of the fact that fishermen from Seattle during the past summer took large quantities of sockeye salmon in the Pacific Ocean beyond territorial waters, and that it was apparent from the success of that fishery in the first summer that it was attempted, that the sockeye salmon fishery in the Fraser River, Georgia Strait, Juan de Fuca Strait and contiguous waters can not be adequately protected and developed unless the fishery on the High Seas is controlled. The principal feature of the revised draft is, therefore, the inclusion in the waters covered by the convention of the territorial waters of the United States and Canada and the adjacent High Seas of the Pacific Ocean between the forty-eighth and forty-ninth parallels north latitude. The fact that the control which the Governments of the United States and Canada may exercise on the High Seas must be limited to nationals, inhabitants and vessels and boats of the two countries has been borne in mind, as appears throughout the provisions of the revised draft.

The Department has in preparation a memorandum showing in detail the difference between the draft herewith submitted and the convention of March 27, 1929, which will be ready for delivery to you by the end of the present week.

Accept etc.

J. P. COTTON

434.

*Le secrétaire d'État aux Affaires extérieures au secrétaire  
aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 40

Ottawa, March 24, 1930

New convention to replace existing convention, signed in 1923, is being negotiated with the United States for the preservation of the halibut fishery of Northern Pacific Ocean and Bering Sea, and early signature is deemed advisable. It is practically the old convention, with the incorporation of recommendations made by the International Fisheries Commission in their report released 8th June, 1928.

These recommendations are that proper governmental authorities be given power to establish areas in each of which a limitation as to the total quantity of fish that may be taken therefrom may be fixed, and that such limitation may be reduced from time to time as found necessary; that certain areas may be closed to all fishing; that the use of certain types of fishing gear be prevented; that the existing closed season provided by the convention be modified and that all vessels engaging in the fishery in convention waters be licensed, so as to assure obtaining adequate statistical data.

Convention will be signed at Ottawa and it is desired that His Majesty may be humbly moved to appoint the Right Honourable W. L. Mackenzie King as his Commissioner and Plenipotentiary, with full power and authority to sign for the Dominion of Canada this convention. A copy of proposed convention is being forwarded.

435.

*Le secrétaire d'État aux Affaires extérieures au ministre aux États-Unis*

*Secretary of State for External Affairs to Minister in United States*

TELEGRAM

Ottawa, May 9, 1930

Pacific Halibut convention has been signed at noon today by the Prime Minister and the United States Chargé d'Affaires.

436.

*Le secrétaire d'État aux Affaires extérieures au ministre aux États-Unis*

*Secretary of State for External Affairs to Minister in United States*

TELEGRAM

Ottawa, May 20, 1930

IMMEDIATE. CONFIDENTIAL. With reference to my telegram of even date regarding acceptance by Canadian Government of United States draft of Sockeye Salmon Convention, it is most important that signature should take place not later than this week if action by Parliament this session is to be made at all possible. Canadian authorities are very anxious that matter be concluded this session. New Full Power forwarded from London on 16th instant is not likely to arrive in time for production when Convention is signed, but I gather that your statement that Full Power has been issued will be sufficient. As to the word "acquire", deletion thereof is most desirable as it would solve one of the difficulties raised by the opposition, but Canadian authorities do not wish to imperil or delay conclusion of Convention on such ground if United States authorities take serious objection to deletion. Whatever conclusion may finally be reached as to deletion of that word, it is desired you sound Secretary of State informally as to whether United States authorities would see any objection to joint statement being made by two plenipotentiaries at time of signature to the effect that it is not intended by High Contracting Parties that the Commission shall have any legal right title or interest in the works at termination of the Convention or that the Governments of either country shall have any legal right, title or interest in the works situated in the other country at the said termination. This suggestion,

however, should not be insisted on with any emphasis, as conclusion of Convention without difficulty and delay is of paramount importance at this juncture.

437.

*Le ministre aux États-Unis au secrétaire d'État aux Affaires extérieures*  
*Minister in United States to Secretary of State for External Affairs*

DESPATCH 1078

Washington, May 23, 1930

Sir,

With reference to previous correspondence concerning the Sockeye Salmon Convention, I have the honour to report, in confirmation of my telephone conversation and telegram of yesterday, that agreement was readily reached at a conference at the Department of State to embody the amendments proposed by the Government of Canada. The conference was attended by Mr. O'Malley, United States Commissioner of Fisheries, Mr. Barnes, Chief of the Treaty Division of the Department of State, Mr. Keating of the Department of State, and myself. The proposed addition of a paragraph to Article VIII concerning the furnishing by each High Contracting Party of land required by the Commission, was immediately accepted as meeting any difficulties caused by the elimination of the word "acquire" in Article III. I subsequently embodied this proposal in a formal Note to the Secretary of State, copies of which I enclose.<sup>1</sup>

2. The State Department later notified me that definite arrangements had been made for the signature of the Convention at 11:30 on May 26 by the Secretary of State and Mr. Massey. Mr. Barnes assured me that no difficulties would be raised should the Full Power for Mr. Massey not arrive by this time.

3. I enquired of Mr. O'Malley whether the United States possessed statutory power to prohibit the use of its ports to fishing vessels not registered in Canada or the United States which might engage in salmon fishing operations in the area of the high seas covered by the Convention. Mr. O'Malley stated that this could be done under existing legislation, and I did not press the point further. I have, however, been unable to discover in the United States Code of Laws that any such general power exists. He added that he proposed to discuss with Mr. Found the form of legislation required to implement the Convention, and that he would see that this question was specifically covered in any recommendations to Congress.

<sup>1</sup> Non reproduite.

<sup>1</sup> Not printed.



4. I shall discuss by telephone this afternoon, after I have had an opportunity of inspecting the final draft prepared for signature by the Department of State, the exact form of the Convention, so that you may be in possession of a complete identical text before the time of signature.

I have etc.

H. H. WRONG  
for the Minister

438.

*Le ministre aux États-Unis au secrétaire d'État aux Affaires extérieures*  
*Minister in United States to Secretary of State for External Affairs*

TELEGRAM

Washington, May 26, 1930

IMMEDIATE. PRIORITY. Have just signed Sockeye Salmon Convention with Secretary of State.<sup>1</sup>

MASSEY

#### PARTIE 4/PART 4

#### AFFAIRES VARIÉES

#### MISCELLANEOUS AFFAIRS

439.

*Le bureau des Dominions au sous-secrétaire d'État*  
*aux Affaires extérieures*

*Dominions Office to Under-Secretary of State for External Affairs*

Downing Street, November 22, 1926

Dear Skelton,

I have been asked to write to you in connection with negotiations which are at present taking place with the United States Government on the subject of Extradition.

The position is that, at various dates during the past 2½ years the United States Government have put forward proposals for the addition of certain crimes and offences to the list of those extraditable under the existing Extradition Treaties between this country and the United States. Some of these

<sup>1</sup> La Convention ne fut pas ratifiée avant 1937. On trouvera les documents pertinents dans les volumes à paraître. Voir aussi le document 344, ci-dessus.

<sup>1</sup> The Convention was not ratified until 1937. Subsequent volumes will contain the relevant documents. See also Document 344, above.

proposals have not been acceptable to His Majesty's Government, but there are others to which we should be prepared to agree, and it appeared to the various Departments here that the best method of dealing with these proposals would be to negotiate a comprehensive new Extradition Treaty consolidating and replacing the existing Treaties with the United States which have been concluded at various dates, the earliest going back to 1842.

Such a new Treaty would contain the usual Article providing that its stipulations would not apply to any of the Dominions unless notice of accession were given on their behalf. As, however, the majority of the Treaties which the new Treaty would replace apply to the whole of His Majesty's Dominions, the effect would be that, unless some special provision were made the conclusion of the new Treaty would automatically terminate the existing Treaty arrangements for extradition between the United States and the Dominions.

It was proposed to meet this difficulty by inserting in the new Treaty a provision to the effect that the existing Treaties should continue in force as between each of the Dominions and the United States until the Dominion concerned either acceded to the new Treaty or concluded a separate Treaty with the United States. While, however, this appeared satisfactorily to meet the case of the other Dominions, it did not seem that it would be quite sufficient in the case of Canada, because there are certain Supplementary Conventions making specific offences extraditable as between the United States and Canada only and it was necessary to consider how the negotiation of the proposed new Treaty could be effected without prejudicing the position of Canada in this respect. In a despatch of the 11th December 1924 two alternative courses were suggested to the Canadian Government:

(1) that, if Canada were likely to accede to the new Treaty, an additional Article might be inserted in the new Treaty providing that, in the event of the accession of Canada, certain specified offences should be extraditable as between Canada and the United States only; or

(2) that, simultaneously with the negotiation of the new Treaty, a separate Treaty might be negotiated between Canada and the United States covering all offences extraditable as between Canada and the United States.

All the other Dominions have expressed agreement in the proposals so far as they are concerned, but no reply has been received from the Canadian Government except a telegram of the 30th April 1926 stating that the proposed new Treaty was still under consideration and a further communication would be sent as soon as possible. In the absence of any expression of the views of the Canadian Government, it has not been possible for the Foreign Office to make any approach to the United States Government. If, therefore, you can do anything to ensure an early reply to the despatch of the 11th December, 1924, we should be very grateful.

I enclose, for convenience of reference, copies of the correspondence<sup>1</sup> with the Governor General on the subject.

Yours sincerely,

H. F. BATTERBEE

440.

*Le sous-secrétaire d'État aux Affaires extérieures  
au bureau des Dominions*

*Under-Secretary of State for External Affairs to Dominions Office*

London, November 23, 1926

My dear Mr. Batterbee,

I am in receipt of your letter of Nov. 22 calling attention to the negotiations at present taking place with the United States Government on the subject of extradition, and to the previous correspondence as to the relation of Canada to the proposed new arrangement.

We shall take up the question with the Justice Department immediately on our return to Canada, and endeavour to let you know the position at the earliest possible moment.

Yours sincerely,

O. D. SKELTON

441.

*Le ministre aux États-Unis au secrétaire d'État aux Affaires extérieures  
Minister in United States to Secretary of State for External Affairs*

DESPATCH 69

Washington, March 25, 1927

Sir,

I have the honour to inform you that the negotiations resumed Monday last at the invitation of the Department of State have ended, and that no conclusion has been reached except that the representatives of the Department of State have promised to endeavour to have the Gentleman's Agreement of 1923 strictly enforced and respected as it should always have been. In other words, the United States authorities have undertaken to put an end to the interference with any of the six wave lengths assigned exclusively to Canada.

It is understood that Mr. Johnston and Commander Edwards will make a full report of the meetings held here and have a copy of it sent me.

Stripped of all technical aspects, the discussions may be briefly summed up as follows.

<sup>1</sup> Non reproduite.

<sup>1</sup> Not printed.

The first meeting was held Monday afternoon at 3:30, after I had had the opportunity of going fully into the case with your delegates. This conference was mainly devoted to the task of stating the Canadian requirements on the one hand, and of the American difficulties to meet them on the other. It was represented on our side that the minimum request was for twelve exclusive wave lengths out of the ninety-five available.

In the evening the experts met informally for the purpose of examining the situation in all its technical details.

The session of Tuesday morning opened with a formal proposal on the part of the State Department's representatives offering eight exclusive wave lengths, that is to say, two exclusive wave lengths in addition to the six above mentioned. No indication, however, being given of the position which these two would occupy on the dial, or of their practical usefulness to us. Of course the proposal was set forth in such terms as would make it appear that Canada would thus obtain twenty-four channels of communication and the United States, eighty-seven. The advantage to Canada would be very doubtful.

Our delegates avoided any commitments and asked immediately for an adjournment for the purpose of studying the proposed agreement. During the recess we gave to it the fullest consideration, taking into account the very probable eventuality of our refusal breaking off the negotiations.

All things being considered, we decided to remain firm in our position (although we were prepared, on the assurances of our experts, that it was safe to reduce our minimum of 12 to 11) not so much because of any little hope we might entertain that the United States delegates would become more reasonable but because we feared that the lure of a gain at best very slight and probably illusory would only result in our retreating from our original position and committing ourselves to unsatisfactory arrangements which would jeopardize the solution of the future problem as to radio control in Canada.

The substance of this decision being conveyed to the Conference at twelve o'clock, the Chairman, on behalf of his colleagues, the United States delegates, asked to adjourn until 3:30 in the afternoon to have a consultation between themselves and perhaps with the higher authorities.

When the last session opened at 3:30, the first words of the Chairman were that the proposal respecting the eight exclusive wave lengths was withdrawn because, it was alleged, of difficulties that had been discovered with regard to the possibility of execution, which meant to us that after all, no very serious offer had ever been made by the other side. The usual expressions of regret on both sides followed and the Conference was concluded.

My impression is that the United States Government were never desirous of giving us substantially anything more than what we enjoy under the Gentleman's Agreement, and that the object they aimed at in these negotiations was to have this confirmed by formal agreement binding upon us for a definite length of time and likely to become permanent in consequence of the conditions thus created.

In my opinion it would have greatly prejudiced our immediate and future interests to commit Canada to anything so inadequate as the provisions which are embodied in the Gentleman's Agreement of 1923.

It is possible that in making their formal proposal, the United States delegates really intended to give us a little more than ultimately was given, although the withdrawal of this offer before the negotiations were terminated practically nullifies this assumption, or at least casts a great deal of doubt on this essential aspect of the discussions.

On the whole the result seems to be (1) that interference with any of the six Canadian exclusive wave lengths will be stopped by the Radio Commission here in the process of re-allotting wave lengths and re-issuing licences and (2) that the demands of Canada for an adequate number of exclusive wave lengths to suit our present and future requirements have not been prejudiced—should other negotiations take place—by any concession made by our delegates in the hope of gaining a little ground.

I feel that the position which the Canadian delegation took at both the recent conferences with United States authorities on the subject of Radio, was entirely sound and in our national interests. The whole subject of Radio broadcasting is of prime importance to Canada. Its bearing on the problem of unification of the Dominion is obvious. The significance of its relation to the needs of our scattered population requires no comment. It is of the greatest importance that we should keep ourselves free to present an unprejudiced case should international negotiations on this subject be resumed in the future. It is probable that with the increase in the number of high-powered broadcasting stations serving our population in the various Provinces, our position as a participant in conferences on such matters with United States representatives will be greatly strengthened. I would respectfully urge the importance of careful consideration being given at an early date to the question of radio broadcasting in Canada in its national aspects.

The Memorandum respecting the short conversation I had with Mr. Secretary Hoover at the end of the first Conference held in February, is attached hereto.<sup>1</sup>

I have etc.

VINCENT MASSEY

442.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM

London, August 4, 1927

CONFIDENTIAL. My despatch 28th February, 1924, Dominions No. 84. On the 5th July the United States Ambassador enquired informally of the Secre-

<sup>1</sup> Non reproduit.

<sup>1</sup> Not printed.



tary of State for Foreign Affairs whether His Majesty's Government would be prepared to renew the Arbitration Convention of 4th April, 1908, which unless so renewed, will expire 4th June, 1928. The Secretary of State replied that he was confident that His Majesty's Government would be not only willing but glad to renew the Convention. Mr. Kellogg similarly enquired "in strict confidence" of His Majesty's Ambassador at Washington on the 6th July whether His Majesty's Government wished to begin negotiations for renewal of Convention and if so when.

We presume that His Majesty's Governments in the Dominions will share the desire of His Majesty's Government in Great Britain for renewal of Convention and if this presumption is correct we would propose to instruct Sir E. Howard that all Governments concerned desire renewal of Convention and will be prepared to take necessary steps as soon as United States Government is ready. Shall be grateful for early reply by telegram. Similar telegram sent to other Dominions.

443.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM

Ottawa, October 5, 1927

CONFIDENTIAL. Your telegram 24th September. Renewal Arbitration Convention with United States. His Majesty's Government in Canada concurs in the proposed renewal and as apparently negotiations are to be carried on at Washington desires that Canadian Minister there should represent Canada in negotiations and receive the necessary Full Powers for the purpose.

444.

*Le ministre des États-Unis au secrétaire d'État aux Affaires extérieures  
United States Minister to Secretary of State for External Affairs*

No. 53

Ottawa, October 17, 1927

Sir,

I have the honor to recall to you a suggestion made by the Canadian Government in April of this year that it may be thought desirable to substitute a formal agreement for the present arrangement governing air operations between the United States and Canada. I am informed that preliminary discussions of an informal nature have taken place between the Director of Aeronautics, Department of Commerce, and the Civil Aviation Authorities of Canada to prepare for a proposed conference dealing with the existing and anticipated air operations between the United States and Canada, which it is hoped will lead to a reciprocal arrangement more conclusive and satisfactory than the one which now exists.

2. I learn, however, that these undertakings cannot be accomplished prior to the expiration of the present arrangement on October 31, 1927. I have, therefore, the honor to invoke your favourable consideration of a request for a prolongation of the present arrangement governing the flight of aircraft between the United States and Canada.

3. A summary of the requirements to be met by American non-government aircraft entering Canada, as these regulations are understood by the Department of State, is enclosed.<sup>1</sup> I should be grateful to learn whether the summary seems to you entirely accurate, and I should be glad to receive a similar statement setting forth the Canadian requirements in respect to government owned and operated aircraft entering Canada from the United States.

I avail myself etc.

WILLIAM PHILLIPS

445.

*Le secrétaire d'État aux Affaires extérieures au ministre des États-Unis*  
*Secretary of State for External Affairs to United States Minister*

Ottawa, October 31, 1927

Sir,

With reference to your note No. 53 of the 17th instant regarding the proposed substitution of a formal agreement for the present arrangement governing air operations between Canada and the United States, I have the honour to state that I am informed by the Department of National Defence that the discussions which took place between the Director of Aeronautics of the United States Department of Commerce and the Canadian Air Authorities disclosed a very helpful attitude on the part of the Department of Commerce in dealing with the problem of international traffic between Canada and the United States, and it is believed that a solution satisfactory to both countries can be arrived at. It is not thought probable, however, that a definite agreement can be reached before the expiry of the term of the existing arrangement, and the request for a prolongation of that arrangement for a further period of six months from October 31, 1927, having been favourably considered, I now have the honour to request you to be good enough to inform your Government that the Canadian Government agrees to the proposed extension for the period named, in the hope that it will be found possible at an early date to complete a more formal agreement.

With regard to your inquiry as to the accuracy of the summary statement enclosed in your note of the requirements to be met by American non-government aircraft entering Canada, it is stated by the Air Authorities that the provisions contained in paragraph 3 of that statement appear to be no longer necessary, owing to the establishment of the licensing and registration system by the Aeronautics Branch of the Department of Commerce, though this

<sup>1</sup> Non reproduit.

<sup>1</sup> Not printed.

information was required in 1920 when the original agreement was entered into. It is added that so long as the other requirements outlined in the enclosure are fully met it will not be necessary in future for the owners of aircraft desiring to enter Canada to send an application to the Department of National Defence in advance. The Aeronautics Branch of the Department of Commerce as well as the Customs and Police authorities have been informed to this effect. Under special circumstances, when the stipulations in regard to entry cannot be fully met, the Department of National Defence should be advised by those desiring to make the flight, so that the circumstances may receive further consideration.

With reference to your request for a statement setting forth the Canadian requirements in respect to Government-owned and operated aircraft entering Canada from the United States, it is stated by the Department of National Defence that under paragraph 2 (n) 2 of the Air Regulations "all state aircraft other than military, customs and police aircraft shall be treated as 'commercial' aircraft, and as such shall be subject to all the provisions of the present regulations"; and that this means in effect that all Government-owned aircraft other than those belonging to the military, customs or police shall be dealt with in accordance with the procedure laid down for commercial aircraft.

As regards military aircraft, Article 32 of the International Convention provides as follows:

No military aircraft of a contracting state shall fly over the territory of another contracting state nor land thereon without special authorization.

In case of such authorization, the military aircraft shall enjoy, in principle, in the absence of special stipulation, the privileges which are customarily accorded to foreign ships of war.

A military aircraft which is forced to land or which is requested or summoned to land, shall, by reason thereof, acquire no right to the privileges referred to in the above paragraph;

and it is held that though the United States are not a contracting state, there is no reason why the same principles should not continue to apply as in the past. United States military aircraft have been granted permission, without reporting each flight, to pass over Canadian territory along the north shore of Lake Erie between Selfridge Field, Michigan, and Buffalo. This permission may be continued but permission for military aircraft to make other flights over Canadian territory should be obtained in advance, through the usual channels.

No special provisions have been required to deal with either police or customs aircraft in the past, and it is not probable that this question will arise during the period of the present agreement. It is considered that no special conditions need be laid down for their entry.

I have etc.

W H. WALKER  
for the Secretary of State  
for External Affairs

446.

*Le ministre aux États-Unis au secrétaire d'État aux Affaires extérieures*  
*Minister in United States to Secretary of State for External Affairs*

TELEGRAM

Washington, November 27, 1927

URGENT. Will you please confirm or deny my understanding that Canadian regulations permit free entry of United States citizens for daily employment at border points.

VINCENT MASSEY

447.

*Le secrétaire d'État aux Affaires extérieures au ministre aux États-Unis*  
*Secretary of State for External Affairs to Minister in United States*

TELEGRAM

Ottawa, November 27, 1927

Your telegram this date understanding is correct. Under the present practice which rests on custom and not on any statutory or agreement basis, United States citizens employed at border points in Canada cross to Canada daily without restriction or formality.

448.

*Le chargé d'affaires aux États-Unis au secrétaire d'État des États-Unis*  
*Chargé d'Affaires in United States to Secretary of State of United States*

No. 304

Washington, December 27, 1927

Sir,

I have the honour to inform you that His Majesty's Government in Canada desires to ascertain the policy which the Government of the United States proposes to adopt regarding the licensing of those long range fixed radio stations for service between points in the United States which have sufficient power to affect stations operating on similar channels within the Dominion of Canada.

Many applications are now before the appropriate authorities in Canada for licences to install fixed services of this character between points in Canada which are already connected by telegraph and telephone. Action on these applications is being suspended pending the receipt of information concerning the attitude which is to be adopted by the Government of the United States towards similar stations in the United States. It is understood that the Federal Radio Commission of the United State has before it a considerable number of applications for national long distance services, but that no final action has as yet been taken in regard to these applications. The policy of the Canadian authorities has been to discourage applicants for licences of this

nature; it is however, obvious that if such licences are freely issued in the United States, a similar course must be followed in Canada to prevent the exclusion of Canada from all the available channels, failing an agreement between the two countries concerning the division of channels.

It is therefore considered highly desirable by His Majesty's Government in Canada that one of the following alternative courses should be adopted:

(1) that a uniform policy in regard to the issue of licences which would adequately protect the interests of both countries, be agreed upon;

(2) that the individual available channels be divided between Canada and the United States.

It may interest the appropriate authorities of the Government of the United States to learn that in the granting of radio licences in Canada, radio services have been classified in the following general order of importance:

(1) Services with ships and aircraft which entirely depend on radio for their means of communication;

(2) Public commercial services between points not reached by any existing means of communications, such as telegraph or telephone;

(3) Emergency services for public utilities such as electric power companies, etc.;

(4) Private services for communication with points not reached by other means of communication;

(5) Public commercial services with points which already enjoy adequate means of communication by wire;

(6) Private services for communication between points which already enjoy adequate means of communication by wire.

I shall be glad if you will be good enough to request the appropriate authorities of the Government of the United States to furnish the information desired by His Majesty's Government in Canada.

I have etc.

H. H. WRONG

449.

*Le ministre aux États-Unis au secrétaire d'État des États-Unis*  
*Minister in United States to Secretary of State of United States*

No. 17

Washington, January 16, 1928

Sir,

I have the honour to acknowledge your notes of January 13th and 14th sent in reply to my note of December 27th, 1927, requesting information on the policy which the Government of the United States proposes to adopt



regarding the licensing of those long range fixed radio stations for service between points in the United States, which have sufficient power to affect stations operating on similar channels within the Dominion of Canada.

The suggestion that a representative of His Majesty's Government in Canada attend the hearings before the Federal Radio Commission on January 17th and 19th was submitted to the competent authorities and I am requested to convey their appreciation of the invitation extended by the Commission. It is not felt, however, that the presence of such a representative in an official capacity would serve as a useful purpose at hearings where attention will be mainly directed to the domestic radio situation of the United States.

It is noted that the Commission will aim, during the hearings, at obtaining a background for establishing a policy for the future allocation of channels in the United States. His Majesty's Government trust that when the time comes to establish such a policy, its relation to the situation in Canada will be duly considered by the Government of the United States in the light of the representations made in my note under reference.

I have etc.

VINCENT MASSEY

450.

*Le ministre aux Etats-Unis au secrétaire d'État aux Affaires extérieures*  
*Minister in United States to Secretary of State for External Affairs*

DESPATCH 58

Washington, January 16, 1928

CONFIDENTIAL

Sir,

With reference to your confidential despatch of October 11th, 1927 regarding the renewal of the Arbitration Convention of 1908 between Great Britain and the United States, I have the honour to enclose a copy of a note<sup>1</sup> which was addressed to Sir Esme Howard by the Secretary of State on December 29th. last, covering a draft Treaty submitted by the Government of the United States in replacement of this Convention. These papers have been transmitted to me through the courtesy of Sir Esme Howard; I presume that the Secretary of State for Dominion Affairs will also communicate with you on the subject, if he has not done so already.

2. It will be noted that the same draft, except for the necessary verbal changes and the reference to the Dominions in Article II, had been submitted to the Government of France in replacement of the Arbitration Convention of 1908 between the United States and France.

<sup>1</sup> Non reproduite.

<sup>1</sup> Not printed.

3. Consideration of this draft from the Canadian point of view may be divided under two main heads: one, whether the scope and methods of arbitration therein proposed are acceptable; and two, whether the form in which the Treaty is drawn is satisfactory to Canada.

4. Under the first head it may be remarked that this proposal goes far beyond the Treaty of 1908. The limiting phrases inserted in Article I of that Treaty, which exclude from arbitration questions affecting "the vital interests, the independence or the honour" of the contracting parties, no longer appear. In their place a much narrower range of exclusions is provided in Article III of this project, which precludes from arbitration matters within the domestic jurisdiction of either party, matters involving the interests of third parties, and matters affecting the Monroe Doctrine. With these exceptions Article II provides for the arbitration of all "justiciable" controversies not otherwise composed.

5. As regards the methods of arbitration, Article I provides that "all disputes of whatever nature they may be" which fail of settlement by diplomatic means, and which are not submitted to the adjudication of a competent tribunal (subject of course to the reservations in Article III mentioned above) shall be investigated by the Permanent International Commission established by the so-called Bryan Peace Treaty of 1914. This Commission would thus be charged with the examination both of justiciable disputes and of the broader political differences which it was primarily created to investigate. Its report would not, of course, be binding on the parties. Article II of this project, however, provides for the arbitration by reference either to the Hague Court or to "some other competent tribunal" of all "justiciable" disputes arising "by virtue of a claim of right under treaty or otherwise", which have not been settled as the result of the investigation of the Permanent International Commission, or by other means. A special agreement would be made, before the submission of each dispute to arbitration, to the terms of which the United States Senate would have to agree. I understand that the specific mention of the Senate's concurrence is regarded by the Secretary of State as essential in order to secure the ratification of this proposal by the Senate.

6. It may be worth while to suggest that consideration should be given to the insertion of an article in the draft similar to Article IV of the Bryan Treaty of 1914, providing that the provisions of the Boundary Waters Treaty of 1909 are not to be affected. Possibly also the ratification of a Treaty such as this might be held to abrogate the Pecuniary Claims Agreement of 1910, and it might therefore be desirable to exclude it also by specific mention in case it should be desired to arbitrate in future claims listed on the second schedule under the 1910 Agreement, such as that of the Pottawatomie Indians. It is possible, however, that the phrase in Article I "when the high

contracting parties do not have recourse to adjudication by a competent tribunal" may safeguard sufficiently the provisions of the two Conventions just mentioned. The explicit reference to the Monroe Doctrine in Article IV is something of a novelty, but it is not likely that the Government of the United States, and especially the Senate, would consent to a more exact definition of this elastic term; it may be noted, however, that the Monroe Doctrine is not excluded from the conciliation procedure established by the Bryan Treaty.

7. Apart from the comments in the last paragraph, no further objections of any importance have occurred to me to the scope or methods of arbitration proposed in this draft. In view of the claim advanced by Congress, and upheld by the Courts, that under the Constitution of the United States Congress can unilaterally abrogate any Treaty by passing legislation in conflict with its terms (see my despatch Number 238 of May 16th, 1927) the arbitration proposals in Article II might prove to be of value in upholding Treaty rights against the United States which had been impaired or threatened by Congressional action.

8. The form, however, in which this draft Treaty is drawn appears to be open to grave objections from the point of view of Canada. It proposes a Treaty between Great Britain and the United States which shall bind the Dominions subject to the qualification contained in Article II that the consent of a Dominion must be secured before a matter affecting its interests is submitted to arbitration. The Dominions are not treated as contracting parties, and no communication has been addressed to me formally or informally by the Secretary of State on this matter. The draft, in short, follows an antiquated plan which may have been appropriate in 1908 or 1914, but which seems no longer applicable to the present status of Canada.

9. In view of the desire of the Government of Canada, as expressed in the telegram to the Dominions Office of October 5th, 1927, to be associated with the Government of Great Britain in the negotiations for the renewal of the 1908 Treaty, I venture to suggest that it would be appropriate for me to intimate to the Secretary of State that while the Government of Canada is anxious for the Arbitration Convention to be renewed, either in its old form or in any more extensive form acceptable to the Governments concerned, it wishes that any treaty in renewal or replacement of the 1908 Convention should be drawn up and signed in accordance with the treaty-making procedure agreed upon at the Imperial Conference of 1926. If you approve of this suggestion, I think that it would be advisable to attempt to make arrangements for similar notification to be made to the Secretary of State at the same time by the British Ambassador on behalf of the Governments of Great Britain and of the other Dominions.

I have etc.

VINCENT MASSEY

451.

*Le bureau des Dominions au sous-secrétaire d'État  
aux Affaires extérieures*

*Dominions Office to Under-Secretary of State  
for External Affairs*

Downing Street, February 7, 1928

Dear Skelton,

You will remember the negotiations pending with the United States on the question of Extradition which formed the subject of a confidential despatch of the 11th December, 1924, from the Secretary of State. When Harding saw you in Canada in August and again in London in October, you explained that questions of jurisdiction as between the Federal and Provincial authorities were involved which would probably be discussed at the Federal-Provincial Conference in November, but that you would do your best to see that we had a reply at the earliest possible date in terms which would enable us to go ahead with the negotiations with the United States. We have awaited the conclusion of the Conference before sending any further reminder, but we are wondering, now that the Conference is over, whether the Canadian Government are in a position to send a reply which will enable the negotiations to progress. The United States Embassy have made several enquiries of the Foreign Office as to when we shall be able to continue the negotiations, and our position in having continually to postpone the matter has become somewhat embarrassing.

Yours sincerely,

C. W. DIXON

452.

*Le ministre des États-Unis au secrétaire d'État aux Affaires extérieures*  
*United States Minister to Secretary of State for External Affairs*

No. 78

Ottawa, February 22, 1928

Sir,

I have the honor to inform you that the President of the United States desires to designate Senator Raoul Dandurand as American non-national member of the International Commission provided for by the Treaty for the Advancement of Peace of July 24, 1914, between the United States and Brazil.

I am instructed by my Government to convey this information to Senator Dandurand through you with the hope that he will be able, with the Canadian

Government's acquiescence, to accept. Upon receiving official notification by your Government, the United States will, in turn, notify the Brazilian Government in the sense of the reply.

I avail myself etc.

WILLIAM PHILLIPS

453.

*Le secrétaire d'État aux Affaires extérieures au ministre des États-Unis*  
*Secretary of State for External Affairs to United States Minister*

Ottawa, March 8, 1928

Sir,

I have the honour to acknowledge your letter of the 22nd of February advising that the President of the United States desires to designate Senator Raoul Dandurand as American non-national member of the International Commission provided for by the Treaty for the Advancement of Peace of July 24, 1914, between the United States and Brazil, and to state that the Canadian Government and Senator Dandurand have both learned with much pleasure of the honour which the President proposes to confer, and that Senator Dandurand with the acquiescence of the Canadian Government has much pleasure in accepting the nomination.

It is assumed that no announcement will be made until the Government of the United States has notified the Government of Brazil.

I have etc.

O. D. SKELTON  
for the Secretary of State  
for External Affairs

454.

*Le secrétaire d'État aux Affaires extérieures*  
*au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

DESPATCH 102

Ottawa, March 14, 1928

Sir,

With reference to your despatch of December 11th, 1924, and further communications on the subject of the Extradition Treaty between Great Britain and the United States, I have the honour to inform you that the Canadian Government considers it advisable to follow the alternative course mentioned in the above despatch to the effect that "a separate Treaty might



be negotiated applying as between the United States and Canada only and covering all the offences extraditable as between Canada and the United States."

I have etc.

O. D. SKELTON  
for the Secretary of State  
for External Affairs

455.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

DESPATCH 135

Downing Street, March 15, 1928

CONFIDENTIAL

Sir,

With reference to Lord Lovat's Confidential despatch Dominions No. 42 of the 25th January, I have the honour to transmit, for the information of His Majesty's Government in Canada two memoranda<sup>1</sup> by the Secretary of State for Foreign Affairs dealing, respectively, with (a) the draft Pact of Perpetual Friendship between France and the United States; and (b) the draft Arbitration Treaty submitted by the United States Government to replace the Arbitration Treaty of 1908 between His Majesty the King and the President of the United States.

2. The negotiations between France and the United States with regard to the first of these instruments appear, for the time being, to be at a standstill and, up to the present moment, no official communication has been made to His Majesty's Government in Great Britain inviting comment on the draft instrument which has formed the subject of these negotiations.

3. The United States draft of an Arbitration Treaty to replace the Treaty of 1908, due to expire by limitation on the 4th June next, has, however, been officially communicated by the United States Government (see Lord Lovat's despatch under reference). It has been engaging the earnest consideration of His Majesty's Government in Great Britain, but, as stated in the last paragraph but two of the second of the memoranda enclosed, it may be difficult to reach any final opinion on the new draft until the Report of the Geneva Security Committee dealing, *inter alia*, with the form and tenor of reservations appropriate to arbitration treaties, has been received. The observations contained in this memorandum are therefore to be regarded only as tentative and preliminary suggestions put forward for consideration.

<sup>1</sup> Non reproduits.

<sup>1</sup> Not printed.

4. It will be seen that the points which appear to merit special attention are:

(1) Whether there should not be reserved to the Parliaments of the several parts of the Empire a power similar to that of the Senate of the United States of America to approve or disapprove the "special agreement" which is a necessary preliminary to recourse to arbitration under the Treaty. Experience shows that the "reference" has often a capital importance in international arbitrations;

(2) whether the new reservations suggested by the United States Government can be accepted in lieu of the existing reservation of questions involving the "vital interests, the independence, or the honour" of the contracting parties; if so,

(3) in what form a reservation should be made on any question involving the exercise of belligerent rights at sea, as to which there is at present a wide divergence between British and Continental schools of thought; and

(4) whether the United States Government should be invited to offer a definition of the Monroe doctrine in order to determine precisely what questions will be excluded from the operation of the Treaty under Article 3 (c) of the United States draft.

5. It would be of great value at the present moment if His Majesty's Government in Great Britain could be furnished with any preliminary observations which His Majesty's Governments in the Dominions may desire to offer in the light of the considerations set forth in the memorandum. They would therefore be grateful if any observations which His Majesty's Government in Canada may have to offer at this stage could be communicated by telegraph at an early date.

6. I take this opportunity to enclose copies of an extract from a despatch<sup>1</sup> from His Majesty's Ambassador at Washington recording a conversation with the United States Secretary of State on the subject of the proposed treaties.

I have etc.

L. S. AMERY

456.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM B. 58

London, June 1, 1928

PRIORITY. IMPORTANT. CONFIDENTIAL. Arbitration Convention with the United States of 1908. In accordance with the procedure proposed in my

<sup>1</sup> Non reproduite.

<sup>1</sup> Not printed.

telegram of the 2nd May, Circular A. 22, His Majesty's Ambassador at Washington was instructed to ascertain views of the United States Secretary of State on a temporary extension of existing convention by an exchange of notes. He was subsequently informed by Mr. Kellogg that such an extension would have to be confirmed by the United States Senate, without whose consent the State Department are unable to bind the United States beyond period of the treaty. As session of Congress was drawing to a close possibility of obtaining ratification by the Senate was remote, but Mr. Kellogg expressed the opinion that no unfortunate consequence would result from an interval of a few months without an arbitration treaty. The Secretary of State for Foreign Affairs is disposed to share this opinion, and is moreover averse from complicating negotiations now proceeding over proposed treaty for the renunciation of war by simultaneous discussion of another subject with the United States Government. In these circumstances, and having regard to the fact that the United States Senate adjourned on the 29th of May until December, it appears to us that it would be best not to proceed further with proposals for the extension of the convention. It is hoped that in the circumstances explained this course will be acceptable to His Majesty's Governments in the Dominions.

Meanwhile, for the purpose of proceeding as rapidly as possible with the consideration of proposed new arbitration treaty to replace existing convention, it would be of great assistance if we could be informed by telegraph of any observations which it is desired to offer on the United States proposals for such a treaty. (See my Confidential despatch, Dominions No. 135, of the 15th March.)

457.

*Mémoire du sous-secrétaire d'État aux Affaires extérieures  
au Premier ministre*

*Memorandum from Under-Secretary of State for External Affairs  
to Prime Minister*

Ottawa, July 9, 1928

#### TRAIL SMELTER

The discussion of this question has recently taken on a somewhat acrid note, doubtless due to pressure of local interests in the State of Washington.

It will be recalled that complaints that properties in the State of Washington were seriously affected by sulphur fumes from the smelter of the Consolidated Mining and Smelting Company at Trail, British Columbia, were first made last Fall. The matter was at once referred to the Government of British Columbia for enquiry. It took some months and several reminders to secure a report, which was to the general effect that investigations by officials of the Province, supported by reports from United States scientists employed by the Company, indicated (1) that the damage done was slight,

and (2) that the Company had endeavoured to effect compensation, had succeeded in some cases and **been prevented** in others by what it considered extortionate demands and also by the laws of the State of Washington which prevented an alien corporation from acquiring land or easement in land.

Our next step was therefore to enquire as to the feasibility of an amendment in the laws of the State of Washington which would permit the granting of compensation. No direct reply to this query was given. We next stated our willingness to join in a reference to the International Joint Commission, asking it to enquire (1) into the extent of any damage done, and (2) as to the amount of indemnity that should be paid and the method of payment. The United States Government replied with increasing vigour, insisting on the inclusion in the terms of reference of provision for prohibiting the emission of sulphur fumes. This would be a most serious affair, as under present technical arrangements it would mean closing down the plant.

The farmers in the State of Washington picture the position as being that of honest and struggling, home-loving, peaceful farmers in Washington being driven from their happy homes by a greedy and arrogant alien corporation. The Company views the case as an attempt at holdup by farmers in a nearly hopeless section who have come to think that they can get much more out of farming this rich corporation across the boundary than from farming their farms, and who are endeavouring to use the Governments at Washington and Ottawa to threaten a complete cessation of operations and thus force extravagant indemnity. There may be some truth in both views, but from what I have been able to see of the situation I think the Company's case is much the stronger.

As is indicated in the draft note attached hereto<sup>1</sup>, the Company not only stands to its willingness to grant full indemnity for any damages, but is spending half a million in an attempt to see whether it can dispose of sulphur dioxide gases. I do not see that we can go further. Mr. Phillips suggested that the Commission be empowered to make recommendations for the control of the plant itself, adding a statement to the effect, "providing such recommendations do not encompass the destruction of the plant itself". I hardly think the Company would be much more pleased at being half destroyed. In discussing the matter with Mr. Phillips ten days ago I told him that it might be complicated by the absence of Mr. Magrath and the pending resignation of another member of the Commission. As you, however, now have arranged to fill the place of the latter, I see no reason why a partial meeting of the Commission could not be held to initiate the proceedings as soon as agreement on the terms is reached.

Attached are copies of the three United States notes<sup>1</sup> of July 5th, June 30th, and May 5th, and a copy of our note<sup>1</sup> of April 25th.

We have been guided in this matter throughout by Dr. King, and have also kept in touch with the Justice Department.

O. D. S[KELTON]

<sup>1</sup> Non reproduits.

<sup>1</sup> Not printed.

458.

*Le chargé d'affaires aux États-Unis au secrétaire d'État  
des États-Unis*

*Chargé d'Affaires in United States to Secretary of State  
of United States*

No. 117

Washington, August 2, 1928

Sir,

I have the honour to refer to your note of July 24th, 1928, and to previous correspondence concerning the exemption from taxation in the United States and in Canada of the income of vessels of foreign registry. I am instructed to inform you that His Majesty's Government in Canada is prepared to conclude with the Government of the United States a reciprocal arrangement for relief from double income tax on shipping profits and suggests as a basis the following draft which has been approved by the Minister of National Revenue of Canada and which could be put into effect immediately if it should meet with the approval of the Secretary of the Treasury. . . .<sup>1</sup>

2. I shall be glad if you will be so good as to submit this draft to the competent authorities of the Government of the United States.

I have etc.

H. H. WRONG

459.

*Le chargé d'affaires aux États-Unis au secrétaire d'État  
aux Affaires extérieures*

*Chargé d'Affaires in United States to Secretary of State  
for External Affairs*

DESPATCH 1360

Washington, September 18, 1928

Sir,

With reference to my telegram of September 13th, 1928 and previous correspondence concerning a reciprocal arrangement between Canada and the United States for relief from double income tax on shipping profits, I have the honour to enclose copies of a note<sup>2</sup> from the Department of State, dated September 17th, 1928, stating that the Government of the United States agree to the undertaking which was suggested to them in accordance with the instructions contained in your telegram of August 1st, 1928.

<sup>1</sup> Un projet semblable se trouve au document 753.

<sup>2</sup> A similar draft text is contained in Document 753.

<sup>3</sup> Non reproduite.

<sup>3</sup> Not printed.



The draft proposal submitted to the Department of State appeared to contemplate the signature of the agreement by the Minister of National Revenue of Canada and the Secretary of the Treasury of the United States. The Department of State has informed me verbally that it is considered that the agreement as recorded in the exchange of notes which has now taken place, is just as binding as an agreement signed in the manner referred to, and that it is not necessary to include the preamble which was attached to the agreement proposed by the Government of Canada. It will be noted that the operative clauses in the agreement now approved by the Government of the United States are identical with the draft submitted except for the omission of the final sentence which can reasonably be regarded as redundant.

I can see no objection to the course adopted by the Government of the United States, but I am refraining from acknowledging the receipt of this note until I have been notified of your views.

I have etc.

H. H. WRONG

460.

*Le secrétaire d'État aux Affaires extérieures au chargé d'affaires  
aux États-Unis*

*Secretary of State for External Affairs to Chargé d'Affaires  
in United States*

DESPATCH 441

Ottawa, September 24, 1928

Sir,

With reference to your despatch No. 1360 of the 18th instant on the subject of the reciprocal agreement between Canada and the United States for relief from double Income Tax on shipping profits, I have the honour to inform you that I concur in the view that the exchange of notes between yourself and the United States Secretary of State (2nd August, 17th September) constitutes a sufficient record of the agreement of the two governments, and I would ask you to inform the Secretary of State accordingly and to add that instructions are being issued by the Minister of National Revenue to the Inspectors of Income Tax to give effect to its terms insofar as the Dominion of Canada is concerned.

I have etc.

O. D. SKELTON

for the Secretary of State  
for External Affairs

461.

*Le ministre aux États-Unis au secrétaire d'État des États-Unis*  
*Minister in United States to Secretary of State of United States*

No. 147

Washington, October 2, 1928

Sir,

I have the honour to inform you that I have been instructed by the Secretary of State for External Affairs to approach you concerning the negotiation of an Agreement between His Majesty's Government in Canada and the Government of the United States governing radio communications between private experimental stations in the two countries.

The General Regulations annexed to the International Radiotelegraph Convention signed at Washington on November 25th, 1927 and approved by His Majesty's Government in Canada, define the conditions under which communications shall be exchanged between Private Experimental Stations (termed Amateur Stations in Canada) of different countries. The relevant provisions in this connection set down under Article 6 of the General Regulations, read as follows:

## ARTICLE 6

## Private Experimental Stations

1. The exchange of communications between private experimental stations of different countries shall be forbidden if the Administration of one of the interested countries has given notice of its opposition to this exchange.

2. When this exchange is permitted the communications must, unless the interested countries have entered into other agreements among themselves, be carried on in plain language and be limited to messages bearing upon the experiments and to remarks of a private nature for which, by reason of their unimportance, recourse to the public telegraph service might not be warranted.

Canadian Private Experimental Stations (Amateur) have been in the past and are, until the 1st. January, 1929, when the new regulations become effective, authorized to exchange certain messages within Canada and with other countries which permit it. Such messages are restricted to those coming within the following general headings, viz:

1. Messages that would not normally be sent by any existing means of electrical communication and on which no tolls must be charged.

2. Messages from other Radio stations in isolated points not connected by any regular means of electrical communication; such messages to be handed to the local office of the Telegraph Company by the Amateur receiving station for transmission to final destination, e.g. messages from Expeditions in remote points such as the Arctic, etc.

3. Messages handled by Amateur Stations in cases of emergency, e.g. floods, etc., where the regular electrical communication systems become interrupted; such messages to be handed to the nearest point on the established commercial telegraph system remaining in operation.

Formal application has now been made to His Majesty's Government in Canada by Canadian Amateurs requesting that they be permitted to handle messages coming within the classes above outlined with the United States of America and that an Agreement be entered into in this connection, as provided for under Article 6, paragraph 2 of the General Regulations annexed to the Radiotelegraph Convention of Washington, 1927.

It may here be added that the same Agreement is desired with the Philippine Islands, which it is understood will adhere to the Convention through the United States.

I therefore have the honour to request that you may be good enough to inform me whether the competent authorities of the Government of the United States and of the Philippine Islands are prepared to enter into an agreement with His Majesty's Government in Canada as proposed above.

I have etc.

VINCENT MASSEY

462.

*Le ministre aux États-Unis au secrétaire d'État des États-Unis*  
*Minister in United States to Secretary of State of United States*

No. 155

Washington, October 8, 1928

Sir,

I have the honour to refer to the note verbale of September 10th, 1928, from the Acting Secretary of State of the United States conveying the information that the Federal Radio Commission of the United States had not, so far, been able to clear an exclusive channel in connection with the intimation given in my note of January 9th, 1928, regarding the establishment of a high-power broadcasting station at Winnipeg.

His Majesty's Government in Canada fully appreciates the difficulties and responsibilities confronting the Government of the United States in the task of seeking a solution of its domestic problems regarding the available channels, all too few in number, within the broadcast band. On the other hand it is believed that the Government of the United States will appreciate, in like manner, the difficulties and responsibilities of the Canadian Government and will realize that if the extension of Canadian broadcasting is no longer to be entirely prevented and listeners in large sections of the country thus denied the opportunity of hearing Canadian stations, additional channels, both exclusive and shared, must be made available in Canada.

It is desired to record a very sincere appreciation of the expression of friendship for Canada coming from the Federal Radio Commission of the United States. His Majesty's Government in Canada, however, dissents most emphatically from the view seemingly entertained by the Radio Commission that the allocation of wave lengths as between the United States and Canada

should be determined on the basis of population. At all of the conferences which have been held to consider this question between officers representing the two governments, particular care was taken by the Canadian representatives to make it clear that, while not wholly ignoring the factor of population, they would have to insist, and did actually insist, that the main consideration in the allocation of channels must be the area to be served. Beyond emphasizing again the point of view of Canada in this respect, it is improbable that any useful purpose would be served at this time by extended reference to it in this correspondence.

It seems pertinent, however, to refer to the observation by the United States Federal Radio Commission that the United States authorities have been forced to crowd a great number of broadcasting stations on channels as compared with the number on the channels in use in Canada. It may with propriety be pointed out that the difficulties thus created are the result of the adoption by the United States authorities of a policy quite different from the policy adopted by the Canadian authorities. The latter, foreseeing the difficulties that were bound to arise, resisted the very urgent demands which were made from the outset for a substantial multiplication of broadcasting stations in Canada. If the demands made on the Canadian authorities had been acceded to, the crowding of the so called Canadian channels would have been just as great as is the crowding of the remaining channels, and it would not then have been possible to point to such a discrepancy in the power in use as is set forth by the Commission.

It must therefore be pointed out that the fact that the Canadian Government has abstained, despite very strong pressure to the contrary, from adopting a policy that would have resulted in overcrowding of channels, in contrast with the policy adopted by the United States authorities, should not be taken advantage of to oppose its proposal, which it sincerely regards as most reasonable, for an agreement as to a proper division of the available wavelengths in order that the people of Canada, scattered as they are over an area equal in extent to that of the United States, may be more adequately served.

It is particularly regretted at this juncture that the United States authorities have not found themselves in a position to accept the proposal that a suitable exclusive channel should be made available in connection with the new station at Winnipeg, the more so when it is considered that past negotiations regarding a proper division of the available channels have clearly indicated what the Canadian Government deems to be the requirements of Canada as a minimum and that the proposal regarding a suitable exclusive channel in connection with the new station at Winnipeg represents only the smallest divisible part of such requirements, that is to say, one additional wave length. It must be added that the new station is now nearing completion and will soon be ready for operation. It is to be operated, as has been pointed out, by the Provincial Government of Manitoba and it will at once be obvious that adequate means for its operation will have to be provided. It is represented by the Department of Marine and Fisheries that if it is found that it will not be possible to assign to this station an exclusive channel because of the



refusal of the United States authorities to clear an additional one, there appears to be no immediate alternative but to authorize it to operate on the shared channel of 780 K/C(384.4 metres) on which the present station is now operating. This means that a station of more than 500 watts would be licensed to operate on a shared channel. The Canadian Government is not unmindful of the situation which would arise from the adoption of this latter course.

I have the honour to ask you to be kind enough to communicate these views to the appropriate authorities. May I express the hope that they will fully appreciate the grounds on which the attitude of His Majesty's Government in Canada is based and that, pending a permanent solution of the general problems relative to a reasonable division of the available channels, they may find it possible to reconsider the position that they have taken regarding the proposal that a suitable exclusive channel should be cleared in connection with the new station at Winnipeg.

I have etc.

VINCENT MASSEY

463.

*Le ministre aux États-Unis au secrétaire d'État des États-Unis*  
*Minister in United States to Secretary of State of United States*

No. 193

Washington, December 22, 1928

Sir,

I have the honour to refer to your note of November 17th. 1928, in which you incorporated a portion of a communication from the Federal Radio Commission concerning the reservation of an exclusive wave length for the new broadcasting station erected by the Government of the Province of Manitoba at Winnipeg.

I have been instructed to indicate that the solution suggested by the Federal Radio Commission, to the effect that this station should be allotted one of the six wave lengths at present exclusively employed in Canada, was certainly not overlooked by His Majesty's Government in Canada; the original proposal that an additional wave length should be cleared for the use of this station was prompted by the inability of the competent Canadian authorities to allot to it one of these exclusive wave lengths. Not the least of the difficulties which have been encountered by the Government of Canada in this connection is the fact that a channel used by a high powered station situated in the middle of the country cannot be employed elsewhere in Canada without danger of interference; with only six exclusive channels at their disposal which can be used for high powered stations the competent Canadian authorities, in order to accommodate the existing stations, must assign each of them to at least two localities.



In view of the considerations mentioned above, in addition to those which were brought to your attention in my note Number 155 of October 8th, 1928, it has become necessary to authorize the Winnipeg station to operate on the wave length 384.4 metres (780 K/C), and the station is now in operation on this wave length.

I have etc.

H. H. WRONG  
for the Minister

464.

*Le secrétaire d'État aux Affaires extérieures au ministre aux États-Unis*  
*Secretary of State for External Affairs to Minister in United States*

DESPATCH 8

Ottawa, January 10, 1929

Sir,

I have the honour to refer to your despatch No. 1990 of December 31st, 1928, enclosing a copy of a note from the Secretary of State regarding the proposal of the Canadian Government to enter into an agreement with the Government of the United States, in accordance with paragraph 2 of Article 6 of the General Regulations annexed to the International Radio Convention of November 25th, 1927, which would permit Canadian private experimental stations in Canada to handle certain classes of radio messages with the United States and the Philippine Islands after January 1st, 1929.

It is noted that the Government of the United States accepts the proposal contained in our despatch No. 452 of September 27th, 1928, with the understanding that it will be reciprocal and that the messages to be exchanged will be restricted to those coming within the general headings described in that despatch.

It is noted also that the Government of the United States interprets the first stipulation set forth in the enumeration of general headings which have just been mentioned to mean that tolls shall not be accepted by amateurs for messages handled by them and that they shall not compete with commercial radio stations or telegraph lines.

The Canadian Government observes that it is the desire of the Government of the United States that the arrangement shall apply to the United States and its territories and possessions including Alaska, the Hawaiian Islands, Puerto Rico, the Virgin Islands, the Panama Canal Zone and the Philippine Islands.

It is observed also that the Government of the United States considers that this arrangement should be subject to termination by either Government on sixty days' notice to the other Government, by a further arrangement between the two Governments dealing with the same subject, or by the enactment of legislation in either country inconsistent therewith.

I have the honour to state that these additional provisions are acceptable to the Canadian Government and that, as stated by the Secretary of State in the penultimate paragraph of his note under reference, the arrangement will be considered to be effective as of January 1st, 1929.

I would accordingly ask you to inform the Government of the United States in this sense.

I have etc.

O. D. SKELTON  
for the Secretary of State  
for External Affairs

465.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions<sup>1</sup>*

*Secretary of State for External Affairs to Dominions Secretary<sup>1</sup>*

TELEGRAM 12

Ottawa, January 23, 1929

IMMEDIATE. CONFIDENTIAL. Your telegram Circular B. 58 and previous telegrams regarding arbitration convention with United States. The Canadian Government considers it of first importance that as complete provision as possible should be made for settlement of difficulties between any of His Majesty's Governments and Government of United States. Recent developments appear to us to indicate desirability as a general rule of throwing emphasis upon measures for prevention of war and creating expectation and habit of peace by providing facilities for friendly settlement of all specific grounds of difference. The revised draft arbitration treaty submitted by United States and the comments of His Majesty's Government in Great Britain contained in despatch No. 135 of 15th March have been examined. The negotiation of similar arbitration treaties between the United States and other countries and the signature of the Kellogg Pact have since then introduced new factors which may require consideration.

2. As regards distinctly Canadian questions it is considered essential to retain and develop procedure of Boundary Waters Treaty of 1909 for conciliation and arbitration, under articles nine and ten which provide for reference to International Joint Commission of practically every dispute between Canada and the United States for investigation and report on request of one party and for binding decision if both parties consent. This procedure covers ground of both Bryan and Bryce-Root Treaties. We consider that International Joint Commission is better adapted to such duties than any new body and that it is essential to its prestige and usefulness to utilize it fully.

<sup>1</sup> La réponse à ce télégramme se trouve au document 521 du chapitre 4. Voir aussi document 520.

<sup>2</sup> The reply to this telegram is printed in Chapter 4 as Document 521. See also Document 520.

3. As regards questions concerning Canada in common with other parts of the Commonwealth, we are prepared to make use of the means of conciliation and arbitration provided by a revision of the Bryan and Bryce-Root Treaties. As an alternative to this procedure, however, as regards disputes between Great Britain or any other part of the Commonwealth and the United States and disputes between several or all parts and the United States, we would suggest consideration of some adaptation of the organization and methods of the International Joint Commission referred to in previous paragraph.

4. Criticisms of drafting of United States proposal made in memorandum enclosed in your despatch 135 seem well taken. It would be necessary also to modify phrasing of draft of proposed treaty and if possible also Bryan Treaty to bring it into conformity with present British Commonwealth constitutional relations.

5. As to substance, with regard to points in section 4 of above despatch:

*First.* Power of United States Senate to reject agreements made by executive is frequently inconvenient and in present case its power to block submission of specific question might conceivably be so used as to nullify general obligation. The United States could not logically object to any proposal to give similar freedom to a British Commonwealth parliament. It may be doubted however whether in practice any such provision would work out in the same way in London as in Washington. The veto power of the Senate is incidental to the peculiar relationship between executive and legislature in the United States and it might not be possible to parallel this procedure under the British system of close cooperation between executive and parliament. We agree that the position is anomalous and requires consideration.

*Second.* The omission of reservations as to vital interests, independence and honour is distinct improvement. Reservation of domestic questions involves some vagueness but is paralleled by provision in Article 39 of the League General Act, and appears acceptable.

*Third.* Reservation of belligerent maritime rights. We recognize that this question has long been one of special and vital concern to His Majesty's Government in Great Britain. We believe, however, particularly in view of naval parity controversy, that any unqualified reservation involving assertion of Great Britain's right to enforce its view of belligerent rights against United States neutral vessels without recourse to arbitration or some other effective method of pacific settlement would have serious effect on public opinion in that country, where determination to prevent exercise of such pressure in future is one of chief forces behind movement for larger navy. We realize force of difficulty which presents itself to His Majesty's Government in Great Britain as to accepting arbitration in existing chaotic state of international law in this field. It would therefore appear desirable to consider possibility of working out international agreement as to codification of maritime law in

time of war. Another possible approach to solution of difficulty may be found in fact that former conceptions of rights alike of belligerents and of neutrals are being modified by differentiation between private wars and operations carried on in cooperation with other states against an aggressor state which had violated provisions of the Covenant or of Kellogg Pact. Resolutions in last Congress and widespread discussion in United States indicate growth of feeling in that country that full exercise of neutral rights should not be demanded in relation to a belligerent defending itself against an aggressor. This tendency has not yet definitely crystallized and difficulty in any case of finding objective tests of aggression must be recognized. It appears however to warrant consideration along with consideration of advisability of seeking codification. We recognize that question is one both of great importance and of great difficulty.

*Fourth.* Reservation as to Monroe doctrine. Reservation vague but doubt expediency of attempting to define or seek definition. No reference apparently made to doctrine in treaty drawn up at Pan American Conference in Washington last month,<sup>1</sup> but interpretation is given in report adopted by Senate Committee on Foreign Relations on January 15 on treaty for renunciation of war.

6. Under Article 1 of Bryan Treaty all questions reserved from arbitration would apparently be referred to conciliation. We agree with observation that Article 3 of United States draft of new treaty would appear to exclude specified questions from conciliation as well as from arbitration and that it should be modified to apply to arbitration only.

7. We would consider it desirable that as in Kellogg Pact Canada should participate directly in any further negotiations.

466.

*Mémorandum du sous-secrétaire d'État aux Affaires extérieures  
au Premier ministre*

*Memorandum from Under-Secretary of State for External Affairs  
to Prime Minister*

Ottawa, March 7, 1929

#### TRAIL SMELTER

You will recall that the question of damage done to farm and forest lands in the State of Washington by sulphur fumes from the smelter at Trail, British Columbia, has been referred to the International Joint Commission.

The United States Government last year made an appropriation of \$40,000 to carry on investigations into this question. Enquiry is now being

<sup>1</sup> Ce paragraphe s'achevait là à l'origine. Le reste fut ajouté à la suite d'un télégramme du 24 janvier.

<sup>1</sup> This paragraph originally ended here. The remainder was added by telegram on January 24.



made by United States scientists under the Department of Agriculture. During the enquiry held at Trail last fall the Canadian members of the Commission and representatives of the Consolidated Smelters were of the opinion that the enquiry was likely to be sufficiently impartial to be accepted by both sides. Mr. Warren has now come to doubt this very much, and I think the Canadian members of the Commission, while not so convinced as he is, consider there is some possibility of an unduly adverse report. As the interests involved are very large, some five thousand men being employed and incidentally one million dollars taxation being paid annually to the Dominion, there is a good deal to be said for the view that the work of the United States investigators should be checked by competent Canadian scientists. The Consolidated Smelters would be prepared to undertake this investigation at their own expense, but it is felt that enquiries conducted under their management would not be considered wholly impartial. It is therefore suggested that the Government should provide for the appointment of say two scientists, one a metallurgical chemist and one a plant pathologist, to carry on investigations for the coming year in cooperation, as far as possible, with the United States investigators. I believe Dr. King supports this recommendation.

Mr. Magrath has been of opinion that the appointment of investigators by the Canadian Government would tend to make the United States report more definitely *ex parte*, but I think that his objection on this ground has been somewhat modified. He was, however, to have an interview with Dr. King this morning, and Dr. King will be able to explain the situation.

The Company is making every effort to develop some method of eliminating sulphur from the smelter fumes, with good prospects of eventual success. It is also prepared to pay any reasonable sum to buy lands or obtain smoke easements on the United States side of the boundary, if a way can be found to effect this.

O. D. S[KELTON]

467.

*Le ministre aux États-Unis au secrétaire d'État des États-Unis*  
*Minister in United States to Secretary of State of United States*

No. 207

Washington, October 22, 1929

Sir,

I have the honour to refer to your note of August 29th, 1929, concerning the proposed reciprocal arrangement between the United States and Canada for the admission of civil aircraft, the issuance of pilots' licenses, and the acceptance of certificates of airworthiness for aircraft imported as merchan-



dise. I have been instructed to inform you that His Majesty's Government in Canada concur in the terms of the agreement as set forth in your note, and will, therefore, consider it to be operative from this date.

I have etc.

VINCENT MASSEY

468.

*Mémoire du sous-secrétaire d'État aux Affaires extérieures  
au Premier ministre*

*Memorandum from Under-Secretary of State for External Affairs  
to Prime Minister*

[Ottawa,] January 10, 1930

TRAIL SMELTER

I called up Mr. Magrath on long distance and learned that he had finally come to the conclusion that it would be advisable to have counsel representing the Government. I informed Mr. Lapointe and told him that you had sanctioned the appointment if he considered it desirable. He said that he thought it would be advisable on the whole though he considered that Mr. Rowell's activities should be limited to bringing out properly the evidence prepared by the scientists appointed by the National Research Council, leaving it to the lawyers representing the Company to present their case. The Department of Justice is accordingly communicating with Mr. Rowell, and Read is preparing material to go over with him. Mr. Rowell may be down next week to meet the scientists concerned. Mr. Warren was informed of the action taken.

O. D. S[KELTON]

469.

*Mémoire du sous-secrétaire d'État aux Affaires extérieures  
au Premier ministre*

*Memorandum from Under-Secretary of State for External Affairs  
to Prime Minister*

[Ottawa,] February 28, 1930

Attached are two notes from Mr. Massey regarding certain tendencies in International Joint Commission affairs about which I reported to you a short time ago.

I have not yet had time to consult Mr. Read regarding Mr. Cotton's charge that the Government of Canada had accepted without question evidence submitted by the Smelter Company. From my own knowledge of

the case, I would say however that the fact was that the Canadian Government neither accepted nor rejected the evidence submitted by the Smelter Company, as the Dominion Government was not a party to the case and was not under the necessity of commenting on the evidence submitted by any party; and, further, that the evidence collected independently by the Dominion Government through the National Research Council did as a matter of fact largely confirm the evidence presented by the Smelter Company's witnesses, who were chiefly United States scientists.

Mr. Massey is wrong too, I think, in stating that our representatives had taken no exception to the attitude of the private counsel on the United States side. They did so emphatically. Two of the private counsel acted like small town police court attorneys.

On the general point, Mr. Cotton is curiously in error, in contending that private counsel should not be allowed to appear before the Commission. The intention of the founders of the Commission was exactly the contrary, namely, to set up a tribunal where private parties could plead their cases directly without the intervention of the governments at all. Sir George Gibbons frequently spoke with pride of this distinctive feature of the Commission's work. It was on this very ground that I doubted the wisdom of the Government appointing counsel in this case, though in view of developments, I think it was best that the Government should be represented by the most weighty counsel available.

However, the main point is the personnel of the Commission, and if the United States Government carries out its indicated intention, I think things may improve.

O. D. S[KELTON]

470.

*Le chargé d'affaires des États-Unis au secrétaire d'État  
aux Affaires extérieures*

*United States Chargé d'Affaires to Secretary of State  
for External Affairs*

No. 690

Ottawa, April 14, 1930

Sir,

I have the honor to inform you that I am in receipt of information from my Government to the effect that the United States War Department is contemplating the flight over Canadian territory of two airplanes going to Alaska, and returning therefrom, about June, 1930. The purposes of the proposed flight are as follows:

1. Photographic reconnaissance of the proposed Yukon-Pacific Highway.
2. Inspection of aviation fields in Alaska.

3. Report of the advantages and disadvantages of stationing an Air Corps unit in Alaska should future occasion arise.

It is contemplated that the three Air Corps officers making the flight will be accompanied by Major Malcolm Elliott, Corps of Engineers, United States Army, who is the President of the Alaska Road Commission. The following is the proposed route to Alaska:

Seattle, Wash. to Victoria, B.C.  
 Victoria to Bellingham, Wash.  
 Bellingham to Prince George, B.C.  
 Prince George to Hazelton, B.C.  
 Hazelton to Telegraph Creek, B.C.  
 Telegraph Creek to Atlin, B.C.  
 Atlin to White Horse, Y.T.  
 White Horse to Dawson, Y.T.  
 Dawson to Tanana Crossing, Alaska.

The proposed return flight is by the same route as far as Prince George, B.C., and then as follows:

Prince George, B.C. to Edmonton, Alberta  
 Edmonton to Saskatoon, Saskatchewan  
 Saskatoon to Regina, Saskatchewan  
 Regina to Fargo, N.D.

I would greatly appreciate it if you would inform me whether such a flight over Canadian territory and the photographing of the route over British Columbia and the Yukon, in connection with the construction of the proposed highway mentioned above, will be agreeable to the Canadian Government.

I avail myself etc.

B. REATH RIGGS

[PIÈCE JOINTE 1/ENCLOSURE 1]

*Le ministre aux États-Unis au sous-secrétaire d'État aux Affaires extérieures*  
*Minister in United States to Under-Secretary of State for External Affairs*

PERSONAL AND CONFIDENTIAL

Washington, February 24, 1930

My dear Dr. Skelton,

W. D. Matthews has just returned to duty at the Legation after a weekend leave in Toronto and has told me of an interesting move which is likely to be made by the Consolidated Smelters with regard to the recent meeting here before the International Joint Commission. Matthews' father, Mr. W. L. Matthews, who is a director of the Consolidated Mining and Smelting Company, told his son that the Smelters people would probably send a communication to the Department of External Affairs asking that representations should be made through this Legation to the Department of State here, protesting against the manner in which the recent case was handled by the

United States counsel and the failure of the United States Commissioners to co-operate in conducting it in a manner appropriate to an international tribunal or, in fact, any court of law.

The recent hearing seems to me to provide an excellent opportunity to take up in a friendly way with the Department of State, the general question of the position of the International Joint Commission, its functions, its prestige, and so forth. Unless the matter is dealt with promptly and resolutely it seems to me that this body is likely to suffer greatly in its usefulness, despite all that we say publicly about its being a model international tribunal which might be widely imitated.

Yours sincerely,

VINCENT MASSEY

[PIÈCE JOINTE 2/ENCLOSURE 2]

*Le ministre aux États-Unis au sous-secrétaire d'État aux Affaires extérieures*  
*Minister in United States to Under-Secretary of State for External Affairs*

PERSONAL AND CONFIDENTIAL

Washington, February 25, 1930

My dear Skelton,

In the course of my conversation this morning with Mr. Cotton, the Acting Secretary of State, I had occasion to allude to the vacancy on the International Joint Commission and I was very glad to hear something of the ideas of the Administration here with regard to personnel and very pleased at some of the prospects in this connection. Of this I shall tell you more when we meet.

I told Mr. Cotton that in my opinion the atmosphere during the recent hearing of the Smelter case had been very unfortunate and derogatory to the dignity and future usefulness of the Commission. He was more or less in agreement with this view, but I found myself unable to accept his opinion as to the cause of the situation which was created. He contends that we should not allow private counsel to appear before the Commission because of their tendency to take, as he alleges, a narrow view of a situation which should be looked upon in a broad-minded way. In applying this principle to the recent case he said that the United States Government representatives felt that the Government of Canada had accepted without question whatever the counsel for the Smelter Company had chosen to submit as evidence. To this I naturally demurred and as to his general statement of the admissibility of private counsel I said that our representatives had taken no exception, as far as I knew, to the attitude of the private counsel on the United States side of the argument, but had been both surprised and perturbed over the attitude towards the case exhibited by Murdock, the counsel of the Department of State. Mr. Cotton admitted that Murdock had been a little over-zealous but, to my surprise, suggested in extenuation of his bearing during

the case the fact that he had been annoyed by what he regarded as an uncritical acceptance by the Government of Canada of ex parte evidence submitted by the Smelter Company.

However we may have disagreed as to the causes of the unsatisfactory atmosphere existing during the recent hearing, we found ourselves in agreement on the importance of the personnel of the Commission being of first-rate ability. Mr. Cotton admitted the traditional shortcomings of his own Government in the matter of appointments to this body and assured me of the determination of the Administration to rectify the mistakes of the past at an early date. This, to my mind, would provide the solution of most of our difficulties. With men of genuine capacity on both sections of the Commission, its widened usefulness and enhanced prestige would be automatic.

Yours sincerely,

VINCENT MASSEY

471.

*Le secrétaire d'État aux Affaires extérieures au chargé d'affaires  
des États-Unis*

*Secretary of State for External Affairs to United States Chargé d'Affaires*

No. 62

Ottawa, June 6, 1930

Sir,

I have the honour to refer to your note No. 690 of the 14th April, 1930, regarding the proposed flight over Canadian territory of two United States airplanes, for the purpose of making a photographic reconnaissance of the proposed Yukon-Pacific Highway, and for other purposes.

The Canadian Government would have much pleasure in facilitating the flight of the airplanes in question through Canada, and would be obliged if they could be informed beforehand of the dates of crossing the British Columbia and Alaska frontiers on the incoming and return voyages.

In view, however, of the fact that the Canadian Government has not yet seen its way to join in the proposed enquiry into the feasibility of the highway from the State of Washington to Alaska so far as the section in British Columbia is concerned, and in view also of the fact that the Air Regulations, Canada, 1920, provide that no photographic apparatus should be installed in nor any photographs taken from any aircraft while operating in or over Canadian territory unless such aircraft is registered in Canada or in other of His Majesty's dominions, it is regretted that the Canadian Government is not in a position to authorize the proposed photographic reconnaissance within Canadian territory.



There is, of course, no objection to aircraft being used for transporting photographs over Canadian territory

Accept etc.

O. D. SKELTON  
for the Secretary of State  
for External Affairs

472.

*Le secrétaire d'État aux Affaires extérieures au chargé d'affaires  
des États-Unis*

*Secretary of State for External Affairs to United States Chargé d'Affaires*

No. 71

Ottawa, June 19, 1930

Sir,

With reference to my note No. 70 of even date and to previous correspondence regarding the Aviation Radio Conference held in New York on April 10 and 11 last, I have the honour to inform you that the Canadian Government are prepared to accept the recommendations of the Conference and, in developing its radio "aids to air navigation and radio communication facilities with aircraft", will follow the general principle set out in these recommendations.<sup>1</sup>

Accept etc.

O. D. SKELTON  
for the Secretary of State  
for External Affairs

473.

*Le chargé d'affaires aux États-Unis au secrétaire d'État des États-Unis*  
*Chargé d'Affaires in United States of Secretary of State of United States*

No. 145

Washington, July 16, 1930

Sir,

I have the honour to refer to correspondence between His Majesty's Government in Canada and the Government of the United States concerning the allocation of radio channels in the international broadcast band, and to inform you that since April 1927 the Canadian station at Brandon, Manitoba, has been using 540 K/C, the first channel above the international band which is 550 K/C to 1500 K/C inclusive.

<sup>1</sup> Les États-Unis annoncèrent qu'ils acceptaient ces avis le 18 août 1930.

<sup>1</sup> The United States announced its acceptance of these recommendations on August 18, 1930.

After careful consideration of the whole situation the Canadian authorities are now disposed to appropriate two further channels above the international broadcast band, viz; 530 K/C and 520 K/C. In reaching this conclusion they have been guided by a procedure already in effect in Europe where the broadcast band has been widened to include these channels.

The use of these low frequency channels will, of necessity, be limited to broadcasting stations in central and northern Canada, in order to comply with the provisions of the International Agreement regarding the adequate protection of the "ship to shore" distress wave from interference. That Agreement creates also a responsibility for seeing that the use of any channel outside an authorized band does not interfere with activities in any other subscribing country.

I have the honour to state that I have been instructed to bring this matter to your attention and to add that this appropriation in no way alters the attitude of His Majesty's Government in Canada as to the ultimate division of channels within the band 550 to 1500 K/C between the two countries.

I have etc.

MERCHANT MAHONEY

## CHAPITRE IV / CHAPTER IV

### ORGANISATIONS INTERNATIONALES INTERNATIONAL ORGANIZATIONS

- |                                              |                                             |
|----------------------------------------------|---------------------------------------------|
| 1. Société des Nations                       | 1. League of Nations                        |
| 2. Cour permanente de Justice internationale | 2. Permanent Court of International Justice |
| 3. Organisation internationale du Travail    | 3. International Labour Organization        |
| 4. Union pan-américaine                      | 4. Pan-American Union                       |

#### PARTIE 1/ PART 1

#### SOCIÉTÉ DES NATIONS LEAGUE OF NATIONS

474.

*Le Conseiller au sous-secrétaire d'État aux Affaires extérieures*  
*Advisory Officer to Under-Secretary of State for External Affairs*

Geneva, January 25, 1926

My dear Dr. Skelton,

Before replying to your letter of the 31st December, with reference to the nomination of an assessor on the Opium Commission, I thought it best to discuss the matter with the Head of the Opium Section, and with the Secretary General. I also looked into the composition of the several technical committees, from the standpoint of nationality, so that, whatever should be the present outcome of my interview with Sir Eric Drummond, I should be able to show that, relatively, Canada was still very poorly represented on the technical committees of the League.

Dame Rachel Crowdy said that she still favoured the appointment of a Canadian to the Opium Commission, either as member or as assessor, and that she would make a proposal to this effect to Sir Eric Drummond.

At the beginning of my interview with Sir Eric, I took the opportunity of assuring him that the two recent appointments to the technical committees had given great satisfaction to Canadians and expressed my very deep

appreciation of his help in the matter. He then discussed the nomination of an assessor to the Opium Commission. Sir Eric thought that, for the present, it would be difficult to give Canada representation on the Opium Commission. It seemed to him necessary that an assessorship should be given to a citizen of the United States, and in this case it would be impossible to appoint a Canadian assessor as well, since there would then be only one assessor from Europe, and two from the American continent. He thought also that there would be some difficulty in appointing a Canadian as a member of the committee, as this would give the British Empire three representatives on a committee of ten.

I assured Sir Eric that we had no thought of making matters difficult for him in connection with this committee, but explained that naturally we entertained reasonable hopes that Canada would be given a measure of representation on the technical committees more in keeping with her importance. I reminded him that Canada, all things being considered, had relatively less representation than any other country on the technical committees of the League. I pointed out that, of over three hundred members and assessors on these committees, Canada has only two; that twenty-three countries have larger representation than we have, and that countries like Belgium, Holland and Sweden have from five to seven times as much representation as Canada. Sir Eric was very much surprised to learn this, and at once said that, in his opinion, we were entitled to a much larger share of this part of the League's work.

In view, however, of the objections raised by Sir Eric, and of the apparent difference of opinion between him and the Head of the Opium Section, it would seem better for the present to let the matter stand over. We can afford to pursue a policy of peaceful penetration, and, although progress may be slow, I am confident that we are meeting with much greater success than even the recent appointments would indicate.

Canada is coming to be thought of as capable of contributing to the whole work of the League and the Labour Organisation, and not merely as a member to be represented in Assemblies and annual Conferences.

Canada's individuality is being taken more seriously by the non-British members of the League; even the representatives of Great Britain appear sometimes to realize that Canada might possibly desire to be represented by Canadians rather than by Englishmen, in the preparatory work of the League and Labour Organisation.

My interview with Sir Eric was worthwhile. He was very friendly, and I believe that, in the future Canada can rely upon his support in all matters involving fuller representation in the League.

Yours sincerely,

W. A. RIDDELL

475.

*Le sous-secrétaire d'État aux Affaires extérieures au Conseiller*  
*Under-Secretary of State for External Affairs to Advisory Officer*

Ottawa, February 20, 1926

My dear Dr. Riddell,

I am very much interested in your letter of January 25th, summarizing the position as to Canadian representation on the Secretariat and in the general work of the League, particularly the interview with Sir Eric Drummond on this question.

In view of the circumstances you note, it does not appear desirable to propose at the present time Canadian representation on the Opium Commission. As compared with the larger countries and particularly European States, Canada has doubtless less than her adequate share of representation on the technical commissions and in the Secretariat. Some substantial progress has been made of late, however, and it is possible that as compared with the other Dominions, we are over-represented, though this is only a surmise on my part.

Your sincerely,

O. D. SKELTON

476.

*Le ministre des Affaires étrangères du Brésil au Premier ministre*  
*Brazilian Foreign Minister to Prime Minister*

TELEGRAM

Rio de Janeiro, February 22, 1926

I would fail my duty if I did not inform officially my distinguished colleague of what you surely know through Canadian delegation League Nations that Brazil a member of Executive Council League since its foundation aspires being elected for one of permanent places to be created on account admission Germany. So intimate have been during proceedings League intercourse and mutual help between Canada Brazil always sincerely interested in fostering progress that institutions that I do not fear asking Your Excellency and Government of Dominion which we consider as a great and authentic American nation their valuable support to my country's aspiration Brazil appraising Canadian friendship very highly and knowing prestige Canada holds at Geneva. Chief of Brazilian permanent delegation Ambassador Mello Franco is authorized open conversation on subject with Canadian delegation if Your Excellency will be good enough send similar instructions. Thanking in advance attention this despatch will receive I send Your Excellency most attentive salutations.

FELIX PACHECO



477.

*Le secrétaire d'État aux Affaires extérieures au  
ministre des Affaires étrangères du Brésil*

*Secretary of State for External Affairs to Brazilian Foreign Minister*

TELEGRAM

Ottawa, February 23, 1926

I desire to express my high appreciation of the friendly sentiments conveyed in Your Excellency's telegram of yesterday. The many points of similarity in the position of Brazil and of Canada and the frequent concurrence in point of view upon questions before the League have made our relations particularly in League affairs very harmonious. So far as proposal for new appointments to permanent seats on Council of League is a question of the relative merits of the various countries concerned, Canada would naturally regard candidacy of Brazil with much sympathy. We are however, not aware that it has yet been decided that any additional permanent seats will be filled or that case for increase has yet been definitely established. It would appear desirable to consider very carefully proposals for increase and if increase is decided upon to ensure that interests of whole League and of the many different members entitled to representation at some time are safeguarded. Members of Canadian delegation will undoubtedly have pleasure in discussing question at any time with Senhor Mello Franco. With highest personal regards.

W. L. MACKENZIE KING

478.

*Le secrétaire aux Dominions au Gouverneur général  
Dominions Secretary to Governor General*

PARAPHRASE OF TELEGRAM

London, February 25, 1926

SECRET. Please communicate the following to Mr. King from Mr. Baldwin:

The attention of the Cabinet has been engaged on the question of the future composition of the Council of the League of Nations (See telegram from Secretary of State for Dominion Affairs, February 13th). The agreement of the Powers whose representatives signed the Western Pact to support the admission of Germany to permanent membership of the Council brings up (1) the question whether further increase in the size of the Council is desirable on general grounds, and (2) the merits of individual claims which for a long time past have been more or less pressed.

The importance of strengthening the moral authority of the Council so that it may eventually achieve in disputes between great Nations success already gained in averting wars between smaller States may be urged as regards general question in favour of increase. Since parties to a dispute, even if members of the Council, do not vote on their own case, position under

existing composition of the Council is that in the event of dispute arising—for example, out of a violation of the Locarno Treaties—five States now represented and with the inclusion of Germany, six would be unable to take part in the voting and some vitally important issue would, at this moment, be left in the hands of the representatives of Japan, Spain, Brazil, Sweden and Uruguay. Imagine Spain replaced by say Portugal, and Sweden by Denmark, as in ordinary rotation they some day would be, would the decision of such a minority carry sufficient weight to preserve peace.

On the other hand, it is important that the effectiveness of the Council should not be diminished by undue increase in its size, and the principle on which permanent membership was originally fixed at the Peace Conference was the inclusion only of Powers whose interests were so world wide that they could be regarded as concerned in the settlement of every serious international dispute.

As regards the claims of particular States, Spain (which at present holds one of the non-permanent seats) appears to possess historical and cultural claims to seat on the Council but unless elected to permanent seat must, in the normal course, presently make way for some less important Power. Even if she is no longer one of the Great Powers, her claim seems stronger and her possible usefulness greater than those of any other State not already a permanent member, apart from Germany and from the United States of America and Russia, which it has always been hoped would eventually become permanent members. Suggested inclusion of Poland might tend to strengthen the prospects of peace in Europe, having regard to the difficult questions which seem certain to arise in not distant future as between Germany and Poland, e.g., as regards Danzig and Upper Silesia. In consideration of these questions chance of agreement is greater if German and Polish representatives meet on equal footing and collaborate in the general work of the Council in questions in which their interests do not clash. Further, in the absence of Poland, French representative will be forced to be her advocate instead of a moderating influence. This must tend to make the relations between France and Germany more difficult. The same object would not be as fully achieved by temporary membership for Poland, as such membership must lapse after a comparatively brief term of years, and the difficulties between the two countries are too fundamental to be disposed of within so short a period.

On the other hand, election of Poland would cause resentment, not only in Germany where her proposed inclusion is regarded as attempted counterpoise to herself, but also in some other countries, having regard to her attitude to the League in the past especially in the matter of Vilna, and if it were regarded as based on the existence of grounds of acute controversy with another State, member of the Council, it is urged undesirable precedent might be provided. In any case, it appears certain that Sweden will oppose Poland's election to permanent seat, and as the unanimous vote of the Council is required, as well as majority in the Assembly, it appears certain that Poland's claim will be defeated.

Claim of Brazil appears weak unless it should be favoured by other leading States of South America, which seems improbable.

Before the Council is called upon to decide, the Secretary of State for Foreign Affairs is endeavouring to secure friendly discussion of the whole position between the signatories of the Treaty of Locarno, including the Germans. Cabinet discussion has been adjourned but in the meantime we were anxious to let you have full particulars as to the issues involved as they appeared to us. Other Prime Ministers have been sent similar message.

479.

*Le Premier ministre au Conseiller*

*Prime Minister to Advisory Officer*

TELEGRAM

Ottawa, March 6, 1926

Following for Canadian representatives<sup>1</sup> Assembly. Cables received giving Foreign Secretary's summary of pros and cons regarding Council seats Spain Poland Brazil and his answers to South Africa's protest against increase and question asked in Commons here by Perley regarding our attitude make desirable further statement government position. In view of possibility of rapid changes in situation and adjustment before question reaches Assembly we do not wish to give any binding instructions but indicate below present views and would request Canadian representatives to communicate in advance if they see reason to approve increase permanent seats. Government does not consider case established for increase permanent seats. If departure made from original plan restricting permanent seats to Great Powers no possibility of drawing line in future. Additions would make Council unwieldy and unduly increase its importance compared with Assembly. Selection of Spain and Poland which have most support would increase European character of Council and be interpreted as tendency divide into opposing camps. Not feasible to bring all possible antagonists face to face within Council. While larger Council would give additional impartial members for solution European difficulties involving four or five members present Council not considered this outweighs counter considerations and in any case if larger Council needed preferable increase elective members. It is noted alternative proposals have been suggested for assigning elective seats in rotation to special groups. Advisability of this assignment very doubtful but if favoured would make necessary consider claims all groups including Dominions though not advisable initiate any such suggestion pending decision for enlargement. While government is not making any suggestions as to course to be followed by Britain on Council substance of this message cabled to London for information.

<sup>1</sup> Les représentants du Canada à la réunion spéciale de l'Assemblée furent R. Dandurand, P. C. Larkin et P. Roy.

<sup>1</sup> The Canadian representatives at the special meeting of the Assembly were R. Dandurand, P. C. Larkin and P. Roy.

480.

*Le Conseiller au sous-secrétaire d'État aux Affaires extérieures*  
*Advisory Officer to Under-Secretary of State for External Affairs*

Geneva, March 11, 1926

My dear Skelton,

On the 9th inst., I sent you the following cablegram:

External Ottawa: Delegation would appreciate authorization to sign 1925 amendment to Article Sixteen. Canadof.

and this morning received your reply:

Canadof Geneva: Order in Council submitted Saturday and approved by Governor General today authorizing Senator Dandurand to sign on behalf of Canada the Protocol embodying the nineteen twenty-five amendment to Article Sixteen of the Covenant. External.

Senator Dandurand signed this protocol this morning.

Yours sincerely,

W. A. RIDDELL

481.

*Le sous-secrétaire d'État aux Affaires extérieures au Conseiller*  
*Under-Secretary of State for External Affairs to Advisory Officer*

TELEGRAM

Ottawa, March 13, 1926

Prime Minister would be obliged by brief statement of views of Canadian delegates on present situation as to Council seats.

482.

*Le Conseiller au sous-secrétaire d'État aux Affaires extérieures*  
*Advisory Officer to Under-Secretary of State for External Affairs*

Geneva, [March 14, 1926]

Situation most tense near deadlock domestic politics and national pride great factor. If Germany unbending imminent danger of adjourning everything to September. Chamberlain struggling day and night for conciliatory solution if Germany wins some members may withdraw. Her rejection of all proposals has created irritation and now doubtful whether she can obtain necessary unanimity for Council seat.



483.

*Le secrétaire aux Dominions au Gouverneur général*  
*Dominions Secretary to Governor General*

PARAPHRASE OF TELEGRAM

London, March 15, 1926

PRIORITY. SECRET. With reference to the League of Nations Council. Today the Secretary of State for Foreign Affairs telegraphed that it would seem that the following solution would be agreeable to the Germans and unite all Council votes except that of ours. (One) Germany enters now without other additions to the Council. (Two) Sweden and Czecho-Slovakia resign their seats which are then at the disposition of the Assembly. Neither presents itself as candidate. (Three) Probable election of Poland and Norway. (Four) Council decides to recommend creation of two new permanent seats in September in favour of Spain and Brazil. This proposal would satisfy Spain and Brazil and prevent trouble with them but of course Assembly would have the right to reject it.

If all the others agreed Sir A. Chamberlain asked for authority to accept but he pointed out that his instructions covered the first three points but would oblige him to reject the fourth. Only if necessary to secure agreement would he use this authority. Lord Cecil doubted, he added, if the promise to create two new permanent seats in September was necessary, and would prefer to wait until after the public sitting of the Assembly had discussed the whole matter but that personally if he were the only obstacle to union, he would be most reluctant to appeal from the Council to the Assembly.

Reply has been sent, as a result of Cabinet meeting this afternoon, that the Cabinet would much prefer solution which does not include the creation of any new permanent seats but that they (?) feel that some solution of the present deadlock is essential and Cabinet will support him if the Foreign Secretary is obliged, as a last resort to adopt proposed clause (Four). That we assume he carries with him the substantial concurrence of Dominion representatives at Geneva, the telegram adds.

For your Prime Minister's information.

484.

*Le secrétaire aux Dominions au Gouverneur général*  
*Dominions Secretary to Governor General*

TELEGRAM

London, March 18, 1926

CONFIDENTIAL. Secretary of State for Foreign Affairs has telegraphed from Geneva asking that the following personal message from him may be conveyed to your Prime Minister. Begins. In the situation, always critical and constantly changing, it has been a matter of great satisfaction to me that I have been able to keep in the closest and most confidential relations with



other Empire Delegations, and I have derived strength and encouragement from their approval and support. We have all recognized that in the Assembly, where each had separate representatives and separate votes, each retained his liberty of action and must assume his separate responsibility, but my object has been to secure that in the Council, where I sat alone, my action should be such as the whole of the Empire representatives could approve. I believe your representative will agree that this object has been achieved. They have had continuous access to the information of the most secret proceedings, which has not been available to any other Delegation(s) not immediately represented in the Council. At the close of the Assembly, I desire to say how valuable this co-operation has been. When the Empire is unanimous its influence is immense. Ends.

485.

*Le Conseiller au sous-secrétaire d'État aux Affaires extérieures*  
*Advisory Officer to Under-Secretary of State for External Affairs*

Geneva, March 22, 1926

My dear Dr. Skelton,

The special session of the Assembly closed on Wednesday morning the 17th March, without admitting Germany to membership in the League of Nations. As you are aware, the final obstacle was the opposition of Brazil to the giving of a permanent seat on the Council to Germany, without a permanent seat being given to Brazil at the same time. The special session of the Assembly therefore appears at present to have accomplished very little.

The Assembly adopted the report of its Second Committee, recommending, in view of the opinion expressed by the Jury of Architects, the purchase of a site fronting on the lake between the Parc Mon Repos and the new International Labour Office, and the construction thereon of an Assembly Hall and of office buildings for the secretariat.

The Assembly had an opportunity of expressing its opinion on the proposal made by Viscount Ishii that a committee should be set up to study the whole question of the reconstruction of the Council. It was emphasized that this committee should be composed of representatives not only of members of the Council but also of the other members of the League, due consideration being given to their geographical situation.

The Council has already given effect to this recommendation of the Assembly, by appointing a committee of fifteen, consisting of representatives of the members of the Council and of the following states: Argentine Republic, China, Germany, Poland, Switzerland. The committee is to meet on the 10th May and is to prepare a report to be submitted to the Council, which will be communicated as soon as possible to the members of the League for their information.

The question of the membership of the Council has now become the most important question before the League. It seems doubtful just what solution will be arrived at. It is highly probable, however, that the committee will recommend that the Council should consist of at least fourteen members.

It has seemed to me that a solution might be reached by dividing the members of the Council into three groups: one of permanent members and two of non-permanent members. The non-permanent members would be elected by the Assembly, as at present, but would be divided into two groups, a group of members elected for say, three years, and eligible for immediate re-election; and a group elected for one year and not eligible for re-election for at least three years.

I discussed this plan with Lord Cecil, and he thought that it was a probable solution.

There is little support for the granting of additional permanent seats to members of the League, and it is therefore probable that those states that claim they are entitled to permanent representation on the Council will have to be satisfied with a place in the second group of seats. The third group would take care of the smaller states that aspire to representation on the Council.

Under this scheme there would be five permanent seats (with Germany) and possibly four or five semi-permanent seats and five non-permanent seats.

The question raised in the Prime Minister's cablegram as to the Dominions having a place in an enlarged Council will need to be followed up, for it is extremely probable that whatever solution of the Council difficulty is reached in September will be more or less permanent.

Yours sincerely,

W. A. RIDDELL

486.

*Le Conseiller au sous-secrétaire d'État aux Affaires extérieures*  
*Advisory Officer to Under-Secretary of State for External Affairs*

Geneva, April 14, 1926

My dear Dr. Skelton,

I received your letter of the 22nd March, and was pleased to learn that the Canadian Government will probably respond to the invitation from the Secretary-General to communicate any views it may have on the question, for the use of the committee dealing with the reconstitution of the Council. The problem of the reorganization of the Council is of great importance, and I am confident that the Canadian Government can make a valuable contribution to its solution.

The committee of fifteen has been given very wide powers, and among the questions it is likely to consider are:

- (1) enlargement of the Council;
- (2) classification of its membership (e.g. permanent, semi-permanent, non-permanent);
- (3) method of recording decisions: by unanimity or by a majority;
- (4) character of membership: racial, linguistic and geographical groupings.

(1) It is hardly likely that the ratio of non-permanent members to permanent members will be departed from in the event of the admission of Germany to permanent membership. If this principle is adhered to, the number of members would at once be raised to twelve.

It is, however, possible that the number may be increased to fourteen or even fifteen, in order to give wider representation, which might include a seat for China, an additional seat (making three in all) for South America, and a seat for the British Commonwealth group. It seems probable, however, that the number will not be less than twelve nor more than fourteen.

(2) The classification of the Council membership seems to me to be a question of the very first importance. I have little to add in this connection to the outline contained in my letter to you of the 22nd March.

Under this scheme, there would be three classes of seats—permanent, unrestricted non-permanent and restricted non-permanent.

(a) *permanent*. The number of permanent members would not be increased, except to admit Germany or the United States. (Russia for the present need not be considered).

(b) *unrestricted non-permanent*. These seats would be unrestricted as to the eligibility of the holders to re-election, the tenure of the seat to be for a term of years not exceeding three, and preferably two. In order to satisfy countries like Spain, it might be necessary to fix a term of three years.

It would seem necessary to create at least three seats of this class. The immediate purpose of creating this class of seat is to reach a compromise solution acceptable to such countries as Spain, Brazil and perhaps Poland.

It is always possible that neither Spain nor Brazil would consent to accept an unrestricted non-permanent seat. I understand, however, that Spain's chief reason for refusing to ratify the 1921 amendment was that it would deprive her of a seat on the Council which she believed would, because of her strong position in the Assembly, be assured to her indefinitely, without this restriction. If this is so, and I have the authority of the Acting Chief of the Legal Section of the Secretariat for it, it is possible that Spain might be satisfied with this type of seat.

Just what Brazil would do, I should not care to predict. I have not seen M. de Mello Franco since the Assembly, so that I do not know his personal

opinion. In view of what has happened, however, I think that Brazil would be well advised to accept any non-permanent seat, as some doubts have been expressed as to whether she will be re-elected to the Council in September.

(c) *restricted non-permanent*. These seats would be filled annually, the holders not being eligible for re-election for three years. If there were six of these seats, this would enable eighteen members of the League to be represented on the Council and take part in its work, during a period of three years. The three classes of seats would thus, during this period, give an opportunity of serving on the Council to approximately one-half the membership of the League.

(3) Suggestions have been made to depart from the rule of unanimity in the decisions of the Council. It is proposed that, when one member uses the veto in a matter which does not affect its vital interests, such a vote should not be counted in recording an otherwise unanimous decision. The difficulty of determining whether a matter is of vital interest to a member seems to make this suggestion of little value, especially at this stage in the development of the League. Members who were thus debarred from voting might be led to withdraw from the League on the ground that it had become a super-state. Such a change would be likely to arouse suspicion and fear, which would more than offset anything that might be gained.

(4) Since 1922, as you are aware, the Assembly has every year reiterated the following recommendation:

It is desirable that the Assembly, in electing the six non-permanent Members of the Council, should make its choice with due consideration for the main geographical divisions of the world, the great ethnical groups, the different religious traditions, the various types of civilization and the chief sources of wealth.

I realise that this recommendation, proposed by the Chinese delegation, has not been taken seriously by European members of the League, but it seems to me that it should be kept in mind in any reorganization of the Council. The interests of Canada and of world peace will on the whole be best served by strengthening the international character of the League.

It is to be hoped that the Committee dealing with the reconstitution of the Council will arrive at a unanimous decision, otherwise it is possible that the deadlock will continue until the mandates of Brazil and Spain terminate at the end of the present year.

Whatever happens, I hope that no threat of resignation will force the Committee to recommend the granting of permanent seats to any states except the recognized "Great Powers".

It seems highly desirable that a solution should be reached which would not involve any new amendment. One point in favour of my proposed



classification is that this could be done within the powers to be conferred on the Assembly by the 1921 amendment. This amendment, as you will recall, reads as follows:

The following paragraph shall be inserted between the second and third paragraphs of Article 4:

The Assembly shall fix by a two-thirds majority the rules dealing with the election of the non-permanent Members of the Council, and particularly such regulations as relate to their term of office and the conditions of re-eligibility.

Thirty-five members of the Assembly and eight members of the Council have already ratified this amendment. The ratifications of France and Spain, however, are still necessary in order to bring the amendment into force. In order to bring the amendment into force for the reconstitution of the Council during the September Assembly, it would be necessary for the delegates of France and Spain to ratify the amendment before this matter was finally settled by the Assembly.

When I discussed the matter with the Acting Chief of the Legal Section, he said that, if the committee on the reconstitution of the Council were to decide to incorporate in their findings the classification I have mentioned, the Assembly might pass a resolution approving the recommendations of the committee, providing the 1921 amendment were ratified.

This having been done, Spain would be assured that a class of unrestricted non-permanent seats would be created and, being practically confident of her election, might at once deposit her ratification.

Immediately the difficulty with Spain was out of the way, France would no longer hesitate to ratify, providing a satisfactory solution had been reached regarding Poland. The French press has been giving considerable space to M. Paul-Boncour's statement at Warsaw, emphasizing his intention of supporting the Polish claim for a permanent seat on the Council. I do not think, however, that this implies that France will not accept a compromise solution.

Yours sincerely,

W. A. RIDDELL

487.

*Le sous-secrétaire d'État aux Affaires extérieures au Conseiller*  
*Under-Secretary of State for External Affairs to Advisory Officer*

Ottawa, May 17, 1926

My dear Dr. Riddell,

I duly received your letters of March 22nd and April 14th on the subject of the Council seats.

It had been anticipated that a communication would be sent to the League outlining the Canadian Government's views on the problem before the Spe-



cial Commission now in session in Geneva. In general it was the Government's view that it was not desirable to increase the number on the Council to any appreciable degree, and that at the present time no case for the appointment of any other power than Germany to a permanent seat appeared to have been made out; that if any change in the number of non-permanent seats were made, there might possibly be some differentiation of tenure, but only by vote of the Assembly and after the adoption of a definite understanding as to rotation; that it was not desirable to press the suggestion for representation of all members on some rotation plan, but that if some such plan were put forward, it would be essential to see that the Dominions were not excluded from the rotation; and finally, that speaking generally, it was desirable to prevent the Council being given undue importance as regards the Assembly and essential to remember that the States selected by the Council were supposed to represent general interests and not merely their own interests.

In view, however, of the fact that so far as we have ascertained, no State not represented on the Commission aside from Persia, had sent in a memorandum, and in view of the continuing delicacy of the situation owing to the persistent demands for seats by several powers, it was considered advisable not to make any statement.

The press reports of the Commission's activities of the past week have been very brief. We are assuming that if anything of particular interest to Canada develops, we shall have some supplementary information from you.

Yours sincerely,

O. D. SKELTON

488.

*Le Conseiller au sous-secrétaire d'État aux Affaires extérieures*  
*Advisory Officer to Under-Secretary of State for External Affairs*

Geneva, June 10, 1926

My dear Dr. Skelton,

I am sending you separately, in two parcels, the provisional minutes of the Committee on the Composition of the Council.

The Committee met on the 10th May and elected as Chairman M. Motta, the representative of Switzerland. It held twelve meetings, all of which were public except one.

In addition to the Council's resolution of the 18th March, the Committee had before it documents, containing suggestions sent in response to the Council's invitation, from the following Governments: Australia, Austria, Cuba, Estonia, Norway, Persia, the Kingdom of the Serbs, Croats and Slovenes.

After a discussion in which all the representatives stated and restated their points of view, the Committee accepted the principle of an increase in the non-permanent membership of the Council.

The following draft regulations dealing with the number and the method of election of the non-permanent members of the Council were adopted:

1. The non-permanent Members of the Council shall be elected for a term of three years. They shall assume office immediately on their election. One third of their number shall be elected each year.

2. A retiring Member may not be re-elected for three years commencing with the date of expiration of its mandate unless the Assembly shall so decide, either at that date or in the course of the three years, by a majority of two thirds; the number of Members thus re-elected shall not, however, exceed one third of the total number of the non-permanent Members of the Council.

As a transitional measure the decision provided for in the preceding paragraph may at the elections of 1927 be taken not only with respect to the Members whose mandates expire at that time, but also with respect to those whose mandates expire in 1928 and 1929.

3. Notwithstanding the above provisions the Assembly may at any time by a two thirds majority decide to proceed, in application of Article 4 of the Covenant, to a new election of all the non-permanent Members of the Council. In this case the Assembly shall determine the rules applicable to the new election.

4. The non-permanent Members shall be increased to nine in number.

5. In order to bring the above system into operation there shall be elected nine Members as soon as possible in the next Assembly. Three of them shall be elected for a term of three years, three for two years and three for one year.

The Committee decided to consider their action on the above as being in the nature of a first reading, and to meet again on the 28th June for a second reading. The question of an increase in the number of permanent seats and of the claims made by Brazil, China, Spain, Persia and Poland to such seats was adjourned until the June meeting.

It is generally believed, however, that the June meeting will not take place, as Spain and Brazil know by this time that there is little or no likelihood of their securing permanent seats. It was hoped that, by shelving the question of the main meeting, an opportunity would be given for them to recognise the futility of their claims.

At present there are rumours that both countries will withdraw from membership in the League, and it is possible that they will have made definite decisions in this regard before this reaches you.

I am still very busy in connection with the International Labour Conferences, and cannot follow the Council meetings as closely as I should like to do. In the event of any important development, however, I shall let you know.

Yours sincerely,

W. A. RIDDELL

P.S. Since dictating the above I have learned that Brazil has resigned from the Council, and it is said Spain has threatened to do so also.

489.

*Le sénateur Dandurand au sous-secrétaire d'État aux Affaires extérieures*  
*Senator Dandurand to Under-Secretary of State for External Affairs*

Montreal, June 26, 1926

My dear Sir,

I made a statement during the last session, in the Senate, relating to the events which took place during the special session of the League of Nations held in March last.

I now desire to add some information touching the relations of the British Delegations between themselves.

I should first recall the fact that many nations—like the United States—are still unreconciled to the six or seven votes given the British Empire, which for them, means Great Britain.

I deem that it would be bad policy, for all the British Sister-Nations, to appear at Geneva, in all their actions or movements, as a single unit, when in reality they are autonomous separate units.

Each Dominion represents in the Assembly its own interests and its own views upon all matters which fall within the jurisdiction of the League. I understand that, since the inception, Great Britain's Delegations have striven to bring about, through frequent conferences, a similarity of views on matters under discussion in the Commissions and in the Assembly.

Last September, when the British Delegations were called together, for the first time, by Sir Austin [sic] Chamberlain, that gentleman expressed the desire that we should meet periodically to examine the questions on the agenda or arising in the Commissions. I then stated that we should not seek to appear to be doing "team" play and that we should limit our conferences to questions of vital importance to the Empire. Sir Austin agreed with that view but added that there was some advantage in knowing each other's point of view.

At a certain stage of the proceedings of the 6th Assembly, of September last, after the departure of Sir Austin Chamberlain, there was an incident created by a statement of Sir Cecil Hurst, in one of the Commissions, when he seemed to speak for the whole of the British Empire. The British Delegations were called together to clear up this matter. Lord Cecil presided and

Mr. Amery was by his side. The latter closed the discussion by stating that there would be no possible misunderstanding if each delegation was careful to speak for itself only.

I was informed, on fairly good authority, that the "Foreign Office" (always there in force) resented that dictum of the "Colonial Office".

In March last, the Assembly had but two meetings: an Opening Day and ten days later a Closing Day. Between those dates negotiations were carried on officiously between the most interested Delegations—mainly the Locarno negotiators.

Sir Austin Chamberlain invited us nearly every day to his rooms, to keep us informed of the discussions which were going on. We felt that we were privileged ones since most of the Delegations were outside of the negotiations and had no direct or reliable information.

At the last meeting of the Britishers, Sir Austin stated that at the Council meeting of that day, the Uruguay delegate excused himself for having reported to the South American Delegates what had taken place at a secret meeting of the Council, and that he had himself—Sir Austin—said that he was sinning likewise—if sin there be—because he deemed it his duty to report the doings of the Council to the Dominions whom he did not represent in the Assembly but did represent in the Council.

I at once disagreed with that affirmation. To my surprise, Sir Austin turning towards me, said: "I know Canada's attitude of mind on this question but I believe that Canada is alone to hold that view". Mr. Smit for South Africa intervened and said: "South Africa follows Canada on this question, because if we recognized Great Britain's representation in the Council we could never hope to get a seat in it." I added that Canada claimed no more rights than any other nation adhering to the League and that we were satisfied to play the same role as the others in the Assembly which elected six members of the Council annually. Sir Austin showed some humor when he remarked somewhat curtly that he had nothing to say if Canada preferred to be represented in the Council by the six Assembly Delegates than by Great Britain and he closed the incident by the statement that this matter would come up for discussion at the Imperial Conference in October next.

I was thus precluded from explaining that Canada can not accept to be bound by all the decisions of the Council and to be hampered in its action when these same matters come before the Assembly.

Moreover the jurisdiction of the Council is a very wide one and Canada's Parliament will always insist on interpreting itself its own obligations arising out of the Covenant.

Will you make it your duty of communicating this Report to the Prime Minister in due time so that the delegates to the 7th Assembly and to the Imperial Conference may be duly apprised of it.

Yours very truly,

R. DANDURAND



490.

*Le Conseiller au sous-secrétaire d'État aux Affaires extérieures*  
*Advisory Officer to Under-Secretary of State for External Affairs*

Geneva, July 22, 1926

My dear Dr. Skelton,

In my letter to you of the 10th inst., I pointed out that it was probable that the report of the Committee on the Composition of the Council would go before the Assembly unchanged. If the report is accepted, the Assembly will then have to elect nine non-permanent members, and in this case the question of representation for the British overseas dominions will at once present itself.

By almost every criterion which should influence the Assembly, the British overseas dominions and India, as a group, have an undoubted claim to a non-permanent seat on the Council. Otherwise, the British Commonwealth of Nations, which contains one-third of the world's population and a little over one-quarter of the land areas (one-third, taking into consideration only the territory of the members of the League) and which contributes 27% of the League's budget, will only have one vote in fourteen, or 7% of the voting power.

If, on the above grounds, the Assembly decides to allot a non-permanent seat to the overseas dominions and India, Canada's claim will undoubtedly be recognized by the other dominions; and Canada would have a much better chance of being elected than any of the other dominions or India. Her industrial importance, her contribution to the peace of Europe, both during the war and since, her continued interest in the League, and her part in developing the underlying principles for which the League stands, could all be used effectively in presenting Canada's claim for a non-permanent seat on the Council.

The present situation appears critical, as whatever settlement is reached at the Assembly this year is likely to become permanent. A number of groups, including the Scandinavian countries, the Little Entente, and the South American republics, will put forward definite claims for representation. Once these have been accepted by the Assembly, it will be difficult for another group to establish a claim.

If the Canadian Government desires to secure a permanent seat on the Council, the preliminary work in Geneva should be begun almost at once. As soon as possible I could approach the various national representatives here, and put out a few feelers through the press, as in the case of the Presidency of the Sixth Assembly.

Yours sincerely,

W. A. RIDDELL



491.

*Le sous-secrétaire d'État aux Affaires extérieures par intérim  
au Délégué canadien*

*Acting Under-Secretary of State for External Affairs  
to Canadian Delegate*

Ottawa, August 5, 1926

Dear Sir George Foster,

On July 30th you were notified by cable that the Canadian Government had appointed you, along with Sir Herbert Ames and Mr. Roy, to represent Canada at the Seventh Assembly of the League of Nations which opens at Geneva on September 6th, and on July 31st a draft to cover preliminary travelling expenses was forwarded to you. An additional draft will be forwarded to you at Geneva as soon as the necessary Governor-General's Warrant has been issued.

Some of the questions which are to come up before the Assembly and collateral matters have been given consideration in Council, and I am instructed to convey to you the general tenor of their conclusions.

A further Order-in-Council has been passed authorizing you to sign the Slavery Convention. As you recall, the question of slavery has been under consideration by the League since the Third Assembly, when it was raised by New Zealand. After lengthy enquiry by a special commission, a draft Convention was drawn up and submitted to the Sixth Assembly. This Convention has since been the subject of comments by various interested States, and particularly by the Government of Great Britain, which comments, together with a copy of the draft Convention, are enclosed<sup>1</sup>. Under the draft Convention, the contracting parties undertake to prevent and suppress the slave trade, and to regulate forced labour, which in a number of African countries is difficult to distinguish from slavery. The Convention has of course special application to backward countries, including Abyssinia, Afghanistan, the Soudan, and will not involve any very direct action upon the part of Canada. The Government considers that the Convention should be signed, with the amendments proposed by the British Government, which appear to make for clearness and effectiveness.

An Order-in-Council<sup>2</sup> has also been passed appointing you the delegate to represent Canada at a special conference of countries adhering to the Permanent Court of International Justice which has been called at Geneva on September 1st to consider the reservations which the United States Senate has imposed on the adherence of that country to the Court. As you are aware, the United States requested that these reservations should be accepted by an interchange of notes, but the Council of the League concluded that it was preferable that a conference be held at which joint action could be deter-

<sup>1</sup> Non reproduits.

<sup>2</sup> Document 517.

<sup>1</sup> Not printed.

<sup>2</sup> Document 517.

mined. Copies of the reservations and of cables presenting in brief form the views of the British, South African and Australian Governments, are appended<sup>1</sup>.

This question has also been given consideration by Council. They consider that the fifth reservation, preventing the Court from entertaining a request for an advisory opinion on any matter in which the United States claims an interest, without its consent, would give the United States a special privilege possessed by no member of the League, and might restrict the activities of the Court in what has been its most promising field of action. Further, the second reservation, which would prevent recourse by the United States to the Court except in disputes with countries with which it had agreed to such recourse in a general or special treaty of arbitration, makes the present adherence by the United States merely a preliminary and conditional action. These are unfortunate qualifications. At the same time, much weight is attached to the consideration that it is highly desirable to have the United States adhere to the Permanent Court, particularly as it is believed by friends of the League of Nations in that country that in practice the reservations would not prove of importance. If there is any possibility of the reservations being clarified or modified, the Government considers that this course should be supported, but in view of the political situation in the United States, it is not probable that any substantial modification of the Senate's action could be looked for. If then it becomes a question of accepting or rejecting, with the reservations attached, it is considered that Canada should not take the responsibility of rejecting the adherence of the United States and thus doubtless barring any probability of its entrance into the League at a later date. It is possible that the conference will be able to devise a method of safeguarding the interests of the other signatories to the Court without rejecting the reservations.

The most important question which will come before the Assembly itself is that of the allocation of the seats on the Council of the League. A special committee of the Council has made the following suggestions based largely on proposals by the British delegates:

(1) That the number of non-permanent members are to be increased from six to nine;

(2) that the non-permanent members should be elected for three years, one-third being elected each year;

(3) that the next Assembly should elect nine members, three for three years, three for two years and three for one year;

(4) that the Assembly may at any time by a two-thirds majority hold a new election of all non-permanent members; and

(5) that retiring members shall not be re-eligible for three years unless the Assembly decides otherwise by a two-thirds majority.

The Council refused to accept the demands of Spain and Brazil for a permanent seat, but the fifth provision makes possible what has been called semi-

<sup>1</sup> Non reproduits.

<sup>2</sup> Not printed.

permanent seats where a two-thirds vote of the Assembly so determines. Brazil has resigned from the League in consequence, and Spain may follow. The obstacle to Germany's entrance in September will thereby be removed.

In the opinion of the Canadian Government, it is not desirable to increase the number of permanent seats. Any such enlargement would increase the importance of the Council relatively to the Assembly and in practice it would be an extremely difficult and delicate matter to decide where the line could be drawn in the case of future applications for permanent seats from other countries which consider themselves in the category of great powers. Much of the difficulty which has arisen in connection with the dispute is due to a tendency to exaggerate the importance of the Council at the expense of the Assembly, and to a tendency of members of the League to consider that a seat on the Council is an opportunity for advancing their individual interests rather than for acting as trustees and representatives of the other members of the League.

The proposals of the special committee outlined above appear well adapted to meet the situation. If accepted, the question will arise whether certain of the non-permanent seats should more or less definitely be assigned to certain geographical areas or groups. It is noted, for example, that it is proposed by the Committee to assign three of the nine seats to Latin America, and that the Balkan States, the Scandinavian States, Asiatic countries, and others, consider they should be definitely assigned seats, possibly in some agreed rotation. Such a tendency to stereotype the assignment of seats is open to serious objection. If, however, that course is followed, it becomes necessary to consider the question of representation of the Dominions. They are eligible for selection to the Council, and aside from Great Britain's contribution, they provide one-sixth of the budget of the League, or more than all the Latin America States together, and several times as much as either the Scandinavian States or the "Little Entente" group. While, then, it does not seem desirable to initiate the question of representation of the Dominions, the Government considers that their claims should be pressed if representations from other countries make it appear that practically all the seats are to be definitely assigned to various groups or areas, and the selection of any other State in future thus shut out.

A copy of this letter is being sent to you at Geneva, in case you do not receive in time this one which is being sent to London.

Yours sincerely,

W. H. WALKER

492.

*Le Conseiller au sous-secrétaire d'État aux Affaires extérieures*  
*Advisory Officer to Under-Secretary of State for External Affairs*

TELEGRAM

Geneva, September 8, 1926

Assembly by unanimous vote this morning admitted Germany to League and to Permanent Membership in Council and increased number non-permanent seats to nine.

493.

*Le Conseiller au sous-secrétaire d'État aux Affaires extérieures*  
*Advisory Officer to Under-Secretary of State for External Affairs*

TELEGRAM

Geneva, September 15, 1926

Report on composition of Council accepted by first Commission and now before Assembly where its adoption is certain. Sir George this morning reiterated Dominions claim to equality in League and to membership on Council. Irish delegation on grounds of Spain's withdrawal and her belief that candidature of Dominions at this session necessary to establish Dominions claim has announced her candidature for non-permanent seat.

494.

*Le Conseiller au sous-secrétaire d'État aux Affaires extérieures*  
*Advisory Officer to Under-Secretary of State for External Affairs*

TELEGRAM

Geneva, September 16, 1926

Non-permanent members appointed for three years Poland, Chile, Roumania; for two years Colombia, Netherlands, China; for one year Belgium, Salvador, Czechoslovakia. Poland declared re-eligible.

495.

*Le Conseiller au sous-secrétaire d'État aux Affaires extérieures*  
*Advisory Officer to Under-Secretary of State for External Affairs*

Geneva, September 25, 1926

My dear Dr. Skelton,

Since my letter to you of the 17th inst., I have had two conversations, at the invitation of Mr. H. F. Batterbee of the Dominions Office, one with Mr. Batterbee himself and the other with Mr. Batterbee and Sir Cecil Hurst. It seems, from these interviews, that Sir Austen Chamberlain has definitely decided that, if the Imperial Conference approves and Canada is willing, he is prepared to support, with all the influence at his command, the candidature of Canada for a seat on the Council next year.

From Mr. Batterbee I learn that all the other Dominions, including Australia and New Zealand, are now in favour of this step. New Zealand and Australia, as countries having mandates, are beginning to realise that the composition of an enlarged Council is of importance to them. He further



stated that they would like to have some general understanding that any Dominion represented on the Council would be willing to hear the position of the other Dominions, before taking action on any question affecting their vital interests. Mr. Batterbee suggested to Sir Cecil Hurst that it might be possible to make some general statement with regard to this matter, on much the same lines as that in the treaty resolution of the last Imperial Conference. Sir Cecil seemed to think that such a general resolution might be acceptable.

Mr. Batterbee is convinced that the time has come to make an announcement with regard to the position of the different members of the British Commonwealth, in the League of Nations, and he would be prepared to advise an amendment to the Covenant which instead of designating Great Britain and her dependencies as the "British Empire" would substitute for the "British Empire" the designation "Great Britain". While I explained that I did not know the position of the Canadian Government in this matter, and could not speak for them, I thought it would be much easier to leave the treaty as it is, and to make it clear by a resolution of the Imperial Conference<sup>1</sup> that the term "British Empire" in the League of Nations represented only Great Britain and the Crown Colonies, etc., and that it might be possible to agree on another name for the whole group, such as the British Commonwealth of Nations or the British Community of Nations. Mr. Batterbee thought favourably of the suggestion, stating that some such solution was necessary to make it clear that all the members of the British group were on a footing of equality in the League.

The question of the place of the Governor General in Canada was also raised by Mr. Batterbee. He is of the opinion that the Governor General should occupy only the place of the King in Canada, and that his other functions could better be carried out by a British High Commissioner in Ottawa. The Canadian Government would give the Governor General information on external policy as a matter of courtesy, but the contacts between the British and Canadian Governments would be through their respective High Commissioners, and in important matters through their respective Prime Ministers as at present.

No doubt you have full information as to the British Government's views, but I thought you might be interested in having the views of Sir Cecil Hurst and Mr. Batterbee, since they have, as you know, great influence as regards inter-Commonwealth matters in the counsels of the British Government.

Yours sincerely,

W. A. RIDDELL

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<sup>1</sup> Cette question fut débattue à la Conférence impériale de 1926. On trouvera une partie de ces délibérations au Chapitre II, Partie 1, ci-dessus.

<sup>1</sup> This matter was fully discussed at the 1926 Imperial Conference. Portions of that discussion are to be found in Chapter II, Part 1, above.



496.

*Mémoire du sous-secrétaire d'État aux Affaires extérieures  
au Premier ministre*

*Memorandum from Under-Secretary of State for External Affairs  
to Prime Minister*

Ottawa, January 8, 1927

Attached is a communication<sup>1</sup> from the Secretary-General of the League of Nations which has just been received, inviting the Canadian Government to appoint representatives to the International Economic Conference which is to be held at Geneva on May 4th, 1927.

The Conference, as you will recall, arose from a suggestion by M. Loucheur of France at the Assembly of the League of Nations of September, 1925. M. Loucheur urged that while success was being attained in bringing about political appeasement in Europe, economic disturbances and economic conflicts still remain. He proposed that an International Economic Conference should be held to consider feasible methods of solution.

As a first step a Preparatory Committee was appointed, which held meetings in Geneva in May and November, 1926. The members of this Committee were appointed by the League of Nations itself, not directly by the governments, and their expenses were borne by the League. The Canadian representative was Dr. Adam Shortt.

The Preparatory Committee, which consisted of thirty-five persons drawn from twenty-one different countries, in co-operation with the Secretariat has drawn up an agenda, of which copy is attached.<sup>1</sup> It covers the world economic position, restrictions on international commerce, and the present difficulties in industry and in agriculture.

The Conference proposals involve certain dangers. There is first the general danger that a Conference of such a wide reference may scatter its energy so much as to prove futile. On the other hand there is the danger that it may make too definite recommendations regarding matters of domestic policy such as immigration or raw materials or tariff policy, and that it may be used by countries desiring to bring up the question of revision of war debts. Primarily European rather than North American problems are concerned, but we are intimately concerned in the prosperity and peace of Europe, and granting this, it is probable that the dangers above noted may be obviated by appropriate action on the part of our representatives and the representatives of Great Britain and the United States, which would take pretty much the same point of view.

It may be noted that each country is invited to appoint any number of representatives up to five. The expenses are to be borne by the separate

<sup>1</sup> Non reproduits.

<sup>1</sup> Not printed.

governments. It will be necessary therefore, if it is decided to be represented, to include an item in the Estimates or Supplementary Estimates for this purpose.

A copy of these documents is being sent to the Minister of Finance.

O. D. SKELTON

497.

*Le secrétaire aux Dominions au Gouverneur général*

*Dominions Secretary to Governor General*

TELEGRAM

London, February 22, 1927

Your telegram of September 12th 1923. Understood that Stephens is retiring from membership of the Saar Governing Commission and that question of appointment of successor will be considered at the forthcoming meeting of the Council of the League of Nations which begins on March 7th. Secretary of State for Foreign Affairs, who will attend the meeting of the Council, would be grateful if he could be informed whether it is the desire of the Canadian Government to suggest another candidate in place of Stephens and in that event if particulars could be telegraphed as regards any candidate whom they desire to recommend. Please telegraph reply as soon as possible.

498.

*Le secrétaire aux Dominions au Gouverneur général*

*Dominions Secretary to Governor General*

TELEGRAM

London, February 24, 1927

As a League of Nations Conference is to meet in July for the purpose of drawing up an International Convention, it seems desirable that before the Conference opens to bring to the notice of foreign countries, the change which, as a result of the Imperial Conference, it is desired to make in the form of Treaties concluded under the auspices of the League (see last paragraph of Section 5 (a) of the Report of the Inter-Imperial Relations Committee<sup>1</sup>). Most convenient opportunity for this appears to be the next meeting of the Council of the League which begins on March 7th, and accordingly Sir Austen Chamberlain proposes to make statement on that occasion but so to word it that the statement will not be more formal than is necessary. Statement proposed will be to the effect that the discussions at the Imperial Conference showed that the acceptance of League Treaties would be facilitated if the practice, adopted for the first time for the Treaty of Versailles and since followed at Geneva, of making Treaties between States instead of between heads of States could be abandoned and if in future League Treaties could be made in the same form as non-League Treaties, i.e., as Agreements between heads of States.

<sup>1</sup> Ollivier, *op. cit.*, Vol. III, pp. 153-4.

<sup>1</sup> Ollivier, *op. cit.*, Vol. III, pp. 153-4.

499.

*Le sous-secrétaire d'État aux Affaires extérieures au Conseiller*  
*Under-Secretary of State for External Affairs to Advisory Officer*

TELEGRAM

Ottawa, April 19, 1927

Please inform Secretary General Canadian Government has pleasure in accepting invitation to participate in International Economic Conference<sup>1</sup> on May 4th and has appointed following delegates: Albert Matthews of Matthews and Company, Toronto, Chairman, Joseph Daoust, President Daoust Lalonde and Company, Montreal, Dr. Adam Shortt, Ottawa, W. A. Wilson, Canadian Agricultural Products Representative in Great Britain, London, and W.A. Riddell, Geneva. For your information may add Shortt and Daoust sailing *Ascania* to Havre today and will proceed to Geneva via Paris. Matthews sailed fifteenth by *Empress* and will spend few days in London.

British Government proposed preliminary conference in London with delegates appointed by other governments of His Majesty but Canadian Government while agreeing that somewhat vague and general character of agenda might warrant informal discussion in Geneva not only with delegates from other Empire countries but with representatives of other States having somewhat similar point of view, were unable to accept the invitation both on ground of engagements of members and because considering preliminary meetings of this nature in London would create misapprehension among other League members.

Please mail Wilson copies of more important Conference documents.

500.

*Le Gouverneur général au secrétaire aux Dominions*  
*Governor General to Dominions Secretary*

TELEGRAM

Ottawa, April 27, 1927

CONFIDENTIAL. Your telegram February 22nd, Confidential, Saar Commission. My Ministers state that candidate contemplated for this appointment will not be available, and it is improbable that the Canadian Government will be in a position to make any recommendation. The Secretary-General is being so informed.

<sup>1</sup> Pour les Rapports de la Conférence économique internationale voir Canada, *Documents parlementaires* Nos 165 et 165(a), 1928.

<sup>1</sup> For the Reports of International Economic Conference see Canada, *Sessional Papers* Nos. 165 and 165(a), 1928.

501.

*Le Gouverneur général au secrétaire aux Dominions*  
*Governor General to Dominions Secretary*

TELEGRAM

Ottawa, May 18, 1927

Your telegram 24th February. Statement to the Council of the League of Nations as to the form of treaties concluded under the auspices of the League. Canadian Government appreciates the action of the Foreign Secretary in making the desired statement on behalf of all the Governments of the Empire concerned at the meeting of the Council on March 9th. It is, however, noted from the Minutes of the Meeting of the Council that in concluding his remarks the Foreign Secretary is reported as referring to "the entity of Great Britain and the Dominions but the Dominions sit in the Assembly in their own name". The Canadian Government considers that there is some danger that these statements will create misapprehension as to the position of the Dominions in the League. While the Government of Canada appreciates the courtesy of the representatives of Great Britain on the Council in making declarations on such occasions as the notification of the desired form of League treaties, it could not concur in the view that His Majesty's Government in Great Britain formally represents the Dominions on the Council. Such a view, to which exception has been taken on former occasions by Canadian delegates to Geneva, would if generally accepted, prejudice the right of a Dominion to seek election to the Council, which was recognized when the Covenant was drafted. It is believed that the Foreign Secretary and His Majesty's Government in Great Britain in general would concur in this position, and that the statement noted above is not to be taken as implying a contrary intention.

502.

*Le secrétaire aux Dominions au Gouverneur général*  
*Dominions Secretary to Governor General*

TELEGRAM

London, May 27, 1927

Your telegram of May 18th. Form of Treaties concluded under the auspices of the League of Nations. According to Sir Austen Chamberlain's recollection what he in fact said (after statement enclosed in my despatch 18th March Dominions 175) was to the following effect "The Covenant of the League of Nations has omitted to take note of the fact that there is an entity Great Britain as well as Dominions. The seat which I occupy here and in the Assembly is attributed by the Covenant to the 'British Empire' but the

Dominions sit in the Assembly in their own name. Great Britain appears nowhere and the existing form of Treaty concluded under the auspices of the League therefore causes us some inconvenience. If the League were willing to revert to the older and well established form, it would facilitate our acceptance of the Treaties negotiated under its auspices." Secretariat of the League were asked early in April to make the necessary corrections in the minutes of the meeting in question but the final text has apparently not yet been circulated by the League and may not be available until the League's Journal for May appears.

503.

*Mémoire du sous-secrétaire d'État aux Affaires extérieures  
au Premier ministre*

*Memorandum from Under-Secretary of State for External Affairs  
to Prime Minister*

Ottawa, July 13, 1927

#### SEAT ON COUNCIL OF LEAGUE OF NATIONS

Before leaving Australia Mr. Lapointe asked to be advised as to whether any action had been taken on the question of Canada's candidacy for a League Council seat. I accordingly wrote him on June 16th and attach a copy of my letter<sup>1</sup>.

Mr. Lapointe replied in a cable of July 5th, of which a decode is attached, strongly advocating our candidacy for a Council seat.

I have been thinking the matter over for some time. It is a question on which there is much to be said pro and con, and at first I saw about as much one way as the other. On further reflection I have come to the conclusion that it would be desirable to seek election.

One argument which had much weight with me against going in was the difficulty of finding a Minister who could attend four meetings of Council a year for the next three years. At the June meeting of Council Sir Austen Chamberlain proposed that hereafter the Council should meet only three times a year. One of the meetings would take place in September, immediately following the Assembly, in which, of course, we would be represented. If Sir Austen's suggestion is adopted, this would make it necessary for us to send a representative only twice a year additionally.

The point on which you raised some doubt in your discussion with Senator Dandurand, namely, the possibility of having to run counter either to England or to France, is a serious one. I talked this over with Sir Cecil Hurst during his visit on Monday. He said that while, of course, there were frequent differences of opinion between the British and French representatives, they were usually ironed out behind the scenes and he thought that for some years

<sup>1</sup> Non reproduite.

<sup>1</sup> Not printed.



to come there was little likelihood of a difference of opinion on an important matter on which it would be necessary for a Canadian or other representative on the Council to vote one way or the other. He added that he would not have been as sure of this if Lord Curzon and Poincaré had continued to direct the foreign policy of their respective countries, as they were both very touchy about prestige and rigidly insistent on small points.

The positive consideration for some Dominion going up for election now is that, following the enlargement of the Council last year, the new system practically goes into force this year for the first time. There is much pressure from the smaller countries in Europe, as well as from the South American States, for inclusion, and if no Dominion is elected there is a possibility that it may be taken for granted that they have foregone their right to election, and a system of rotation in which they are not included will become stereotyped. I had felt that this argument might be met by the Irish Free State going up, particularly as they are better equipped for attendance at the Council meetings because of their nearness to the Continent. The Irish Free State, however, it was recognized had less chance of being elected than Canada, and I am afraid that one result of the murder of Kevin O'Higgins will be to distract the attention of the Irish Free State and to make it still less likely that they will become a successful candidate.

Mr. Lapointe adds a good deal of weight to the argument of clinching Dominion status and to the prestige that would attach to the Government. Senator Dandurand said that he hoped that you would be able to go to the Assembly yourself. I told him that just at present you had had enough of conferences, but that perhaps you might be able to find an opportunity within the next two or three years.

Under all the circumstances, I am inclined to think that we should go in for election and face any extra work and responsibilities that may be involved.

O. D. SKELTON

[PIÈCE JOINTE/ENCLOSURE]

*Le ministre de la Justice au sous-secrétaire d'État  
aux Affaires extérieures*

*Minister of Justice to Under-Secretary of State for External Affairs*

TELEGRAM

Geneva, July 5, 1927

CONFIDENTIAL. Strongly favour Canada's candidate League Council. Would advertise Dominion status to international world. Abstention would mean acceptance status quo. Do not fear objection mentioned your letter (i.e., possible conflict between England and France). O'Higgins interviewed me wants know our decision they will be candidate if we decline but agree our chance better. They will start work immediately for us or themselves. Only

opportunity making this important step during present Parliament and having credit for advancing Canada international. See Prime Minister and cable final view.

LAPOINTE

504.

*Le sous-secrétaire d'État aux Affaires extérieures par intérim  
au Délégué canadien<sup>1</sup>*

*Acting Under-Secretary of State for External Affairs  
to Canadian Delegate<sup>1</sup>*

TELEGRAM

Ottawa, 4 septembre 1927

Après entrevue avec Ernest<sup>2</sup> le Premier accepte votre point de vue et vous autorise faire nécessaire pour réussir.

DÉSY

505.

*Le sous-secrétaire d'État aux Affaires extérieures au Premier ministre  
Under-Secretary of State for External Affairs to Prime Minister*

[Geneva,] September 17, 1927

My dear Mr. King,

Now that the second week of the Assembly is ending, it may be well to send you a brief report upon developments of special interest to Canada. The plenary sessions of the Assembly, which afford opportunity for a general review of League affairs, something like the debate on the Address, lasted a full week. The outstanding speech was undoubtedly that of M. Briand. It was not as great an effort as his speech on the entrance into the League of Germany last year, and it sounded as if he was saying more than he really was saying. But it was a magnificent bit of oratory, and worth coming three thousand miles to see the play of his features, the supple movements of his hands, and the shrugs of his shoulders. Politis of Greece, who has returned to the Assembly after two years' absence, made an extremely clever speech, which made one realize what the sophists of ancient Athens must have been. He was one of the two chief framers of the Geneva Protocol. On this occasion he made a speech deprecating the attempt to revive the Protocol for the present. This attitude was generally assumed to have a pretty close connection with the fact that Greece is trying to raise a loan on the London market. But whatever the motive, it was a clever bit of reasoning. Hambro of Norway made a slashing speech in English attacking the diplomats of the Great Powers for their attempt to run the League by secret meetings in hotel

<sup>1</sup> Les Délégués canadiens étaient R. Dandurand, C. Stewart and O. D. Skelton.

<sup>2</sup> Ernest Lapointe.

<sup>1</sup> The Canadian delegates were R. Dandurand, C. Stewart and O. D. Skelton.

<sup>2</sup> Ernest Lapointe.

rooms. It was the popular hit of the Assembly. Stresemann made a short and effective speech in good temper, and conveying the undertaking of Germany to accept the optional clause on compulsory arbitration. Austen Chamberlain spoke at length, answering Hambro's attacks on the inside ring, reiterating Great Britain's stand against the Geneva Protocol, and showing what the British Government had done for the maintenance of peace in other directions. It was a frank and a forceful speech, with the content of the greater part of which I personally agreed, but its effect was spoiled by a very petulant and arrogant tone, which rubbed everyone the wrong way. Sir Austen is quite evidently nervous and on the defensive, as a result largely of Cecil's resignation. Senator Dandurand spoke briefly, but effectively, on the last day of the debate. He explained the position which the Canadian Government had taken on the Geneva Protocol in 1925, and spoke on behalf of the rights of minorities, citing examples of tolerance on the part of Quebec.

The Agenda of the Assembly did not appear to be a very eventful one, and most people prophesied a rather dull session. As a matter of fact it is, however, decidedly interesting. The chief subject of general interest has been the attempt of Continental Powers to revive the subject of security, which means getting every other nation pledged to come to their support. These proposals have taken many forms. The Poles had a quite ambitious programme which, however, after a conference with Briand and Chamberlain, they watered down into a pious resolution declaring that a war of aggression was an international crime. The Dutch sprang a somewhat similar project, and were more stubborn in face of the British request for modification. They have asked the Assembly, without reviving the Protocol, to discuss anew the principles underlying it,—arbitration, security, disarmament. Dr. Nansen of Norway, brought forward a project for the peaceful settlement of every dispute, i.e., that a brief treaty should be elaborated providing for the submission of every dispute either to the Permanent Court of International Justice, or to a special committee of arbitrators. Paul-Boncour of the French Delegation, who detests Chamberlain almost as much as Chamberlain detests him, after some difference of opinion with his own delegation, has brought forward an elaborate omnibus plan, offering as alternatives an endeavour to draw up local security, or Locarno pacts, or a general treaty of compulsory arbitration, or a revival of the Protocol with modifications according to geographical distance. The Finns, doubtless with one eye on Russia, have a modest proposal that all other members of the League should agree to bear the war costs of a country which is the victim of aggression. All these proposals are still in the melting-pot of the Third Committee.

The other five Committees have been busy. Senator Dandurand is presiding over the Second Committee, which deals with the Technical Organisations of the League, and has a very full agenda. Mr. Stewart has been chiefly concerned with the Fourth Committee, on Budget and Finance, and I have given most of my time to the First, where the project of codifying international law has been the chief subject, though we will have to deal next week with Nansen's plan.

From the specifically Canadian point of view, the chief interest has been the Council election. Three of the nine non-permanent members retired this year, Belgium, Czechoslovakia and Salvador, and three others were to be elected for a three year term to take their places. On Sunday, September 5th, we received Mr. Désy's telegram stating that after a conference with Mr. Lapointe you had authorised Canada to seek a seat on the Council. It happened that a meeting of the British Empire delegations, or the "Cubs" as Senator Dandurand calls them, had been called at the Hôtel Beau-Rivage by Sir Austen Chamberlain, for Sunday night. We had received the telegram an hour earlier, and Senator Dandurand sprang the news on the meeting. Sir Austen was obviously taken aback. He said he regretted that we had not let him know earlier of our decision. He had not, he said, made any commitments, which was not exactly an accurate statement, but he was afraid that our candidacy at the last moment would not be successful and thought it might be better to wait another year. He also stated that it would be a very embarrassing position for him if Canada were elected and took a different attitude on the Council from his own. If we went up, however, he would support us. And the other Dominions and India promised us support. We allowed it to be known that we were likely to be a candidate. It became clear that there was a distinctly friendly attitude towards Canada, though this had been largely because we had not wanted anything. It was recognised in some quarters that North America should be represented; in others, that the British Dominions should have a look in, but outside of the Empire Delegations it was as Canada, and not as representing anybody else, that our chief strength lay. Our dual language situation gives us double means of contact; the independent position Canada has taken in the League and her pioneering in the Empire, all helped. No other Dominion could have secured half our support. Senator Dandurand's personal popularity, the quiet, but effective, canvassing of Mr. Roy and Dr. Riddell, the vigorous support of the Irish Free State, made the most of the situation.

It was evident, however, that it was very doubtful whether this friendliness would be translated into votes. There were five definite candidates; Belgium, which was supported by Britain and France, but could not, under the rules adopted last year, become a candidate again unless the Assembly adopted a resolution of re-eligibility by a two-thirds vote; Finland, which was supported by Britain as a counterpoise against Russia; Greece, backed by France; Portugal, a perennial candidate, and Cuba, the choice of the Latin-American States, for the third seat which, by an unwritten law, seems to be assigned to that part of the world. Each had its supporters; in general Europe showed much reluctance to giving up one of the seats it now held: the "Journal de Genève", in a friendly editorial before the election, suggested that Canada should take Cuba's place as representing the New World. Then



there was much doubt as to whether a vote for Canada would not be simply another vote for Britain, which may be respected, but is not exactly loved, in the League, particularly since Cecil's resignation, and our own attitude on Article 10 and the Protocol were unpopular among a good many of the States that want someone else to "secure" them.

We came to the conclusion that we would not have a ghost of a show if Belgium were a candidate. Quite aside from the interests of our own candidacy, and while recognising the historic and personal claims of Belgium, we felt it was contrary to the principle of rotation adopted last year to re-elect her. Chamberlain, however, was pledged, and Australia and India followed his advice; Ireland, South Africa and ourselves voted against her, and the Scandinavian States were openly opposed on principle. The voting on Belgium's re-eligibility came Thursday morning. She needed 32 votes; she had been promised 38, and she received, in secret ballot, 29. That left the field open, but during the day the Latin-Americans, fearing that a good many Europeans would choose Canada as the American seat, made a log-rolling deal with Greece which nearly dished us. Forty-nine States voted; 25 was the minimum required, and the three highest would take the seats. Cuba received 40; the result partly of log-rolling and long-continued canvassing; but partly a feeling that there was a pledge to give Latin-America three seats and that while Cuba would not be a very effective member she could keep the seat warm until Argentina and Brazil returned to the League. Finland, a champion of security and the Protocol, received 33; Canada came next with 26, successful by the skin of our teeth. We had the solid vote of the British Empire delegations, Northern and Central Europe, and other scattering votes; we do not know whether France voted for us or not. Senator Dandurand's speech undoubtedly clinched the votes of three or four States which have minority relatives in other States, though I have told him it may mean that the Ukrainians and Hungarians and Jews and Chaldeo-Assyrians will hereafter look to Canada to champion them in the Council. Greece had 23, Portugal 16 and a dozen scattering votes. The result aroused a great deal of surprise and much interest, but on the whole comments have been quite favourable.

We were plunged at once into Council affairs, under the rule that the new Council members take over as soon as elected. Senator Dandurand took his place at the Council seat this morning, in a very complicated and very acrimonious dispute between Rumania and Hungary on ex-propriation of Hungarian landowners in Rumania: the controversy has lasted all day and will be continued on Monday.

On the whole, it was worth while to establish the principle of Dominion equality in the League, and it would, I think, have been harder to establish next year, as every year strengthens precedents and makes the existing possessors of seats very unwilling to give them up. On the other hand, a close view of the Council's work also makes it clear that it will not be easy to carry



out effectively the new duties we have assumed. We will have to give a good deal more time and attention to League matters. It will be necessary, first, to send a Minister to every session (December, March, June, September); second, for Dr. Riddell to keep us closely in touch with developments between sessions; third, to assign a man in the External Affairs Department wholly or largely to League questions; and fourth, to make some additional financial provisions. Once in, we will have to face the responsibilities.<sup>1</sup>

The Assembly may end in another week or so. Mr. Stewart has left for Germany with Dr. Camsell to look into low temperature carbonisation experiments for which Nordegg has secured an entrée; Senator Dandurand will spend some time in Paris, and I will put in my time in Paris and London, and elsewhere if the inquiries into diplomatic and consular activities so warrant.

I hope that you are planning a real holiday before long, and that all has been going well.

Yours sincerely,

[O. D. SKELTON]

P.S. I am sending a copy of this to Mr. Lapointe.

506.

*Le sous-secrétaire d'État aux Affaires extérieures au Conseiller*  
*Under-Secretary of State for External Affairs to Advisory Officer*

Ottawa, November 17, 1927

My dear Dr. Riddell,

As we are advising you by cable and have advised the Secretary-General by letter, Senator Dandurand has been appointed by the Governor-General-in-Council to represent Canada at the 48th Session of the Council in December. As this is the first full meeting attended by a Canadian representative, he will be accompanied by Mr. Desy. I am certain that with Senator Dandurand's intimate experience of Geneva and the co-operation of yourself and Mr. Desy, Canada will be very effectively represented in the coming Council meeting.

You may take it for granted that you will be asked to represent Canada on the Preparatory Commission for the Disarmament Commission. Formal notification will be sent to you shortly.

Yours sincerely,

[O. D. SKELTON]

<sup>1</sup> Entre autres celle de membre d'un certain nombre d'organismes de la Société; voir par exemple les documents 571 et 572.

<sup>1</sup> Among these responsibilities was membership on a number of League bodies; for example see Documents 571 and 572.

507.

*Le secrétaire d'État aux Affaires extérieures au secrétaire général,  
Société des Nations*

*Secretary of State for External Affairs to Secretary General,  
League of Nations*

At Geneva, September 3, 1928

Sir,

I have the honour to inform you that His Majesty's Government in Canada has appointed as its representatives at the ninth Assembly of the League of Nations:

Rt. Hon. W. L. Mackenzie King, P.C., Prime Minister, President of the Privy Council, and Secretary of State for External Affairs;

Hon. Raoul Dandurand, Member of His Majesty's Privy Council for Canada, Minister of State and Leader of the Government in the Senate;

Hon. Charles Dunning, Member of His Majesty's Privy Council for Canada and Minister of Railways and Canals;

and has appointed as substitute representatives:

Hon. Philippe Roy, Canadian Government Representative in France;

Dr. O. D. Skelton, Under Secretary of State for External Affairs;

Dr. W. A. Riddell, Canadian Advisory Officer, accredited to the League of Nations.

I have etc.

W. L. MACKENZIE KING

508.

*Le sous-secrétaire d'État aux Affaires extérieures au Conseiller  
Under-Secretary of State for External Affairs to Advisory Officer*

Ottawa, June 5, 1929

Dear Dr. Riddell,

I should be glad if you would be good enough to send me a report as to the present position of the First and Second Protocols of Amendments to Article 16 of the Covenant.

As you doubtless are aware, the First Amendment of September 27, 1924, was submitted for the approval of the Privy Council in Canada, and at that occasion the Prime Minister observed that, while the whole of Article 16 is open to objection, the present Amendment is harmless, and indeed an improvement. In September 1925, the Protocol was signed for Canada by Senator Dandurand, and on September 5th this Government cabled London

requesting His Majesty to ratify it for Canada. This, apparently, has not been done. His Majesty's Government in the United Kingdom, which on December 3rd, 1924, cabled this Government of their desire to sign and ratify the Protocol as soon as possible and asked us if we desired to do the same, have apparently, since that date, altered their minds, as up to the present it seems that they have neither signed nor ratified.

The Second Protocol, amending Paragraph 11 of Article 16, was signed by Senator Dandurand on March 11th, 1926. On April 14th of that year His Majesty's Government in the United Kingdom asked this Government if we desired ratification in respect of Canada. Apparently no reply was sent. Great Britain on November 3rd, 1925, informed us that it intended to sign and ratify the Protocol; but as far as our information shows, it has done neither.

Before taking up the matter with His Majesty's Government in the United Kingdom, in order to ascertain the reasons for their failure to take the contemplated action, I should like to have as complete a statement as possible as to the general position of these Protocols now before the League; especially since the work of the Committee on Security and Disarmament may have had an influence on the general attitude towards the Protocols.

Yours sincerely,

O. D. SKELTON

509.

*Le Conseiller au sous-secrétaire d'État aux Affaires extérieures*  
*Advisory Officer to Under-Secretary of State for External Affairs*

Geneva, June 20, 1929

My dear Dr. Skelton,

With reference to your letter of the 5th June concerning the present position of the First and Second Protocols of Amendments to Article 16 of the Covenant, the situation is as follows:

The Protocol of Amendment to the latter part of the First Paragraph (Geneva, Sept. 27, 1924) has been ratified by the following five countries—Estonia, Netherlands, Roumania, Salvador and Siam, and has been signed by eleven other States. The Protocol of Amendment to the Second Paragraph of the original text (Geneva, Sept. 21, 1925) has been ratified by only four countries—Denmark, Estonia, Netherlands and Chile, and has been signed by thirteen others.

Neither Protocol has been signed by Great Britain nor has the Secretariat any indication as to Great Britain's intentions in this respect.

I am informed that the reason why the ratifications are so few in number is probably due to the fact that the numerous amendments have made Article 16 so complicated that States appear to have lost interest.

I am sending you what immediate information I have been able to gather, but I am making further enquiries and will communicate the result of these later.

Yours sincerely,

W. A. RIDDELL

510.

*Le Conseiller au sous-secrétaire d'État aux Affaires extérieures*  
*Advisory Officer to Under-Secretary of State for External Affairs*

Geneva, October 19, 1929

My Dear Dr. Skelton,

I am sending you herewith a copy of a memorandum on Dominion Representation on the Council. A copy has also been addressed to you, the Office of the High Commissioner for Canada, London.

Yours sincerely,

W. A. RIDDELL

[PIÈCE JOINTE/ENCLOSURE]

*Mémoire*

*Memorandum*

[Geneva, October, 1929]

#### DOMINION REPRESENTATION ON THE COUNCIL

This question came up at the opening meeting of the Commonwealth Delegations on Sunday evening, just preceding the opening day of the Assembly. A brief statement was made by Major Marr, first Delegate of Australia, announcing the candidature of Australia as a successor to Canada on the Council in 1930. Mr. McGilligan, head of the Irish Free State Delegation, although appearing to be taken somewhat by surprise, made a similar declaration on behalf of the Irish Free State. These announcements naturally created considerable interest among the Commonwealth Delegations.

At a meeting a week later which was called to discuss the question of the elections to the Council which were taking place the following Tuesday, Mr. McGreer, who was the only Canadian present, asked if it was not an appropriate time to decide which of the Dominions should be proposed to succeed Canada. The question did not meet with an enthusiastic reception. Mr. Philip Baker, however, agreed that it would be wise to take such a decision before the end of the Assembly and Mr. Henderson said that he saw no objection to any of the Delegations calling a meeting to discuss the question if they so desired.

On the 3rd September, Senator Dandurand called a meeting of the Commonwealth Delegations when the question was given further consideration. The following attended the meeting: Sir William Harrison Moore, Sir Granville Ryrie, Mr. McGilligan, Mr. Louw, Senator Dandurand, Miss Macphail, Dr. Riddell, Sir James Parr, Sir George Foster, Mr. Elliott, Mr. McGreer, Mr. Dalton, and Mr. Cadogan. The last two arrived very late and after Mr. McGilligan and Mr. Louw had left. The meeting opened with a statement by Sir William Harrison Moore who reviewed the whole Council situation and said that according to his instructions the Government of Australia was prepared to put forward their candidature for the Council providing the majority of the Commonwealth Members expressed approval. Mr. McGilligan then presented the case for the Irish Free State. He pointed out that since coming to Geneva he had discussed the question with various Delegates and journalists and had received sufficient assurance to enable him to report favourably to his Government on the candidature of the Irish Free State in 1930. He stated, however, that the Irish Free State would run as an independent State and not so much as a Member of the Dominions Group, although he did not imply that they would not be pleased to receive help from the other Dominions. Sir James Parr thought that it would be fatal to the success of a Dominion if both Australia and the Irish Free State were to run for a seat in 1930 and he stated that if such were the case New Zealand would be bound to support her nearest neighbor, Australia.

Sir Granville Ryrie did not appear very enthusiastic regarding his country's candidature and pointed out that it was a long way to bring a man for the Council Meetings and expressed some doubt as to the possibility of securing a suitable representative. Mr. Louw, the South African Delegate, made it clear in the course of the discussion that he favoured the Dominion Block system as likely to provide more representation for the Dominions. Senator Dandurand then asked Dr. Riddell for his opinion. Dr. Riddell stated frankly that he believed that if both countries were candidates in 1930 neither could be elected. He pointed out that while Canada had nothing to gain from the establishment of a Dominions Group, the Dominions as a whole had and that the Irish Free State or Australia would be much more likely to achieve success running as a member of the Dominions Group than as an independent member. He stressed the fact that 1930 was the crucial year for establishing a Dominions Group in the Council and if the Dominions succeeded in electing a Member it would be practically the same as the recognition of a Dominions Group by the other Members of the League. The Delegates seemed to be of one mind as to the advisability of putting forth a candidate in 1930. Dr. Riddell also stated that the group system was now definitely established and referred to the South American, the Little Entente, the Scandinavian and Far East Groups.

Mr. Dalton and Mr. Cadogan, arriving late, were informed by Senator Dandurand of what had taken place. Mr. Dalton thought that if both the



Dominions were to run it might be possible to elect Australia and made it clear that as far as he was concerned the weight of British influence would be in favour of Australia.

It was generally agreed that nothing more could be done for the present except to refer the situation to the respective Governments and it was thought that perhaps the matter could be gone into further during the meetings of the Experts Committee to be held in London during October. The hope was expressed, however, that it would be possible to arrive at a definite solution so that there would be sufficient time to make a thorough canvass for support.

511.

*Le premier ministre d'Australie au secrétaire d'État  
aux Affaires extérieures*

*Australian Prime Minister to Secretary of State for External Affairs*

TELEGRAM

Canberra, April 3, 1930

Irish Free State has informed me of its intention to seek election seat on Council of the League of Nations next Assembly and has asked Australia's support. Understand that you have received similar request. I should be glad to know confidentially your views on attitude Dominions should adopt. Similar telegram sent to His Majesty's Government in New Zealand and His Majesty's Government in the Union of South Africa.

512.

*Le secrétaire d'État aux Affaires extérieures au  
premier ministre d'Australie*

*Secretary of State for External Affairs to Australian Prime Minister*

TELEGRAM 3

Ottawa, April 4, 1930

CONFIDENTIAL. Your telegram 3rd April regarding Irish Free State candidacy in Council of League of Nations received. We consider Dominions are entitled to one of the fourteen seats on the Council and while effort will doubtless be made at coming Assembly to elect China, Greece, Belgium or some other European Power we believe it is highly desirable that there should be a Dominion candidate and that there is good prospect of success. I understand that Australia does not intend to be a candidate. We have accordingly informed Irish Free State that we shall have pleasure in supporting its candidacy.

513.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs  
External Affairs*

DESPATCH 36

Downing Street, June 3, 1930

SECRET

Sir,

I have the honour to inform you that the attention of His Majesty's Government in the United Kingdom has recently been engaged with the problems arising in connection with the election to the Council of the League of Nations at the forthcoming Assembly. A memorandum analysing the present position is enclosed.<sup>1</sup>

2. The difficulties arising from the existence of the present system of allocation of seats on the Council are explained in the accompanying memorandum. His Majesty's Government in the United Kingdom feel that the whole problem of the method of election to the Council is surrounded with difficulty and that the time has come when the position generally requires review. They are now engaged in carefully exploring the problem, with a view to determining whether it would be possible to formulate definite proposals which could be ready for discussion with the other Members of the British Commonwealth before the elections to the Council at the next Assembly, and they would be grateful to receive any observations that His Majesty's other Governments may have to offer as to the best solution of what is admittedly a very intricate question.

3. His Majesty's Government in the United Kingdom feel that any system of election to the Council should secure that the Members of the Council elected under it are fairly representative of international opinion as a whole and that there should be as little opportunity as possible for canvassing and intrigue with all their accompaniment of heartburning and jealousy. It is further desirable that when the presence of some country on the Council is specially important the system established should be sufficiently elastic to permit this to be secured.

4. This year, for example, there is the difficult question of China's candidature. It may turn out that by September the recrudescence of large-scale civil war may have put China wholly out of court; it may be, on the other hand, that the Government at Nanking may have made further progress towards stability, and that they may be seriously considering asking for the co-operation of the League in schemes of general national reconstruction. In that case election to the Council might decide them definitely in favour of such a

<sup>1</sup> Non reproduit.

<sup>2</sup> Not printed.

scheme, while defeat would not only make such schemes impossible, but would completely check their present tendency towards increased co-operation with the League. The issue may affect the whole position and authority of the League in Asia; and this being so, it would appear to be necessary to consider the question of China's candidature on the broadest grounds both of the interests of the British Commonwealth of Nations and of the interests of the League of Nations as a whole.

5. In any case, the central object must be to bring about the election of a thoroughly representative and authoritative Council. For unless the composition of the Council is satisfactory the work of the League must be seriously compromised. His Majesty's Government in the United Kingdom believe that in achieving this result the co-operation of all the nations composing the British Commonwealth will be of the utmost value.

6. In consideration of the general problem one of the questions that naturally arises is that of another Dominion succeeding Canada when she vacates her seat this year. As to this His Majesty's Government in the United Kingdom wish to state, in the most unequivocal terms, first that they desire to give all the co-operation possible in securing the election of a Dominion representative on the Council from time to time, and attach the greatest importance to this matter, and secondly that if all the Dominions and India are agreed on the candidature of any one of them His Majesty's Government in the United Kingdom can be relied on also to give their support. It is their most earnest desire to see all the Members of the Commonwealth taking a foremost place in every branch of the activities of the League.

7. As regards, however, the question of Dominion candidature this year, it must be recognised that if a Dominion stands for election in place of the retiring Canadian representative, this step will be regarded by the Members of the League generally as a definite attempt to establish a Dominion group. From this point of view His Majesty's Government in the United Kingdom suggest that the question whether it is desirable to create such an impression ought to be very carefully considered. It is necessary to take account of the fact that the objections which may be felt in the Assembly to the establishment of such a group may mean that it would be difficult to secure the election of a Dominion this year, and it would seem to be a question which ought to be very carefully weighed, whether from the point of view of prestige and the future prospects of success it is desirable that a Dominion should stand this year or whether it would be preferable to wait until next year, when the objections above indicated will not arise and it should be possible, with the hearty co-operation of all Members of the Commonwealth, to secure without difficulty the election of a Dominion.

8. His Majesty's Government in the United Kingdom would have been disposed to suggest that the whole question should be discussed at the forthcoming Imperial Conference, but this, of course, would not be possible in the case of the election next September. They have thought it desirable to

set out their views with the utmost frankness, and would be glad to be favoured with any observations which His Majesty's other Governments may have to express.

I have etc.

PASSFIELD

514.

*Le sous-secrétaire d'État aux Affaires extérieures au Conseiller*  
*Under-Secretary of State for External Affairs to Advisory Officer*

PERSONAL AND STRICTLY CONFIDENTIAL

Ottawa, June 19, 1930

My dear Dr. Riddell,

You will, I am sure, be interested in the enclosed despatch<sup>1</sup> from the Secretary of State for Dominion Affairs of the 3rd June, 1930, regarding the coming election to the Council, and also in the personal letter of Lord Passfield's of the same date, with the copy which he encloses of a communication to Mr. McGilligan<sup>2</sup>.

It is quite true that there are many anomalies in the present method of election to the Council, not the least being that some powers are given permanent seats while others have to be elected from time to time. There are dangers in the group system and particularly the danger that if it is too much stereotyped, it may prevent providing for special emergencies, such as the selection of China under certain circumstances. I do not see, however, why the Dominions alone should be called upon to make sacrifices to redress this situation.

From another angle, I am not altogether convinced that it is to Canada's interest to pose simply as "a Dominion". Canada is Canada and certainly has more right to representation than New Zealand, and the right to representation a second time before New Zealand serves once. However, that is another matter.

Yours sincerely,

O. D. SKELTON

515.

*Le Délégué canadien au sous-secrétaire d'État aux Affaires extérieures*  
*Canadian Delegate to Under-Secretary of State for External Affairs*<sup>2</sup>

Geneva, September 12, 1930

Dear Dr. Skelton,

We have had two meetings of the Council and probably two more will be necessary before Monday. The matters under discussion have not involved any controversial debates and there has been a minimum of discussion.

<sup>1</sup> Voir le document précédent.

<sup>2</sup> Non reproduites.

<sup>3</sup> Les Délégués canadiens étaient sir R. L. Borden, J. A. T. Chapais et M. I. Parlyby.

<sup>1</sup> See preceding document.

<sup>2</sup> Not printed.

<sup>3</sup> The Canadian delegates were Sir R. L. Borden, J. A. T. Chapais and M. I. Parlyby.

I was asked to open the debate in the Assembly yesterday and after some hesitation I accepted. Perhaps you may be interested in knowing the line I took and thus I am sending you a type-written copy of my observations<sup>1</sup>, which were well received. M. Briand told me that I had made his task easier and Mr. Henderson said I had given him a good opening.

The Assembly paid Canada the compliment of electing me to the chairmanship of the Sixth Committee by 39 out of 43 votes. I rather anticipate that the question of European Union will be referred to this Committee, in which case my hands will be more than full.

Compared with other countries, our staff is quite inadequate for the work in which we are engaged. Of course it would be quite impossible to deal with the situation if it were not for the assistance of Dr. Riddell and Colonel Vanier and the staff of the Permanent Office. Mr. Robertson is working very hard and has his hands more than full.

I am afraid that we shall not be finished here before early in October.

The social functions are commencing to be oppressive and I shall have to begin discriminating in the immediate future.

With kind regards etc.

R. L. BORDEN

516.

*Le Conseiller au sous-secrétaire d'État aux Affaires extérieures*  
*Advisory Officer to Under-Secretary of State for External Affairs*

TELEGRAM 38

Geneva, September 17, 1930

Guatemala, Norway and Irish Free State were elected members of the Council this morning, obtaining respectively 42, 38 and 36 votes. China's request for re-eligibility was refused.

## PARTIE 2 / PART 2

### COUR PERMANENTE DE JUSTICE INTERNATIONALE PERMANENT COURT OF INTERNATIONAL JUSTICE

517.

*Décret du Conseil*  
*Order in Council*

P.C. 1232

August 7, 1926

The Committee of the Privy Council have had before them a Report, dated 31st July, 1926, from the Secretary of State for External Affairs, submitting

<sup>1</sup> Non reproduites.

<sup>1</sup> Not printed.



that a note has been received from the Secretary-General of the League of Nations notifying the intention of the Council to invite the Governments signatories of the Protocol for the acceptance of the Statute establishing the "Permanent Court of International Justice" to appoint delegates to participate in a discussion of the United States proposal to accede to such Protocol with certain conditions, reservations and understandings, subject to which the United States Senate had given its advice and consent to the accession of that country, to be held in Geneva on the 1st September 1926 and enquiring whether Canada would accept an invitation to participate in this discussion and name a delegation for the purpose.

The Minister recommends that the invitation referred to be accepted and that The Right Honourable Sir George Eulas Foster, G.C.M.G., be appointed as the Canadian delegate.<sup>1</sup>

The Committee concur in the foregoing recommendation and submit the same for approval.

518.

*Décret du Conseil*

*Order in Council*

P.C. 993

June 9, 1928

The Committee of the Privy Council have had before them a Report, dated 8th June, 1928, from the Right Honourable W. L. Mackenzie King, the Prime Minister, stating that he has received from the Secretary General of the League of Nations notification of the resignation of Mr. Bassett Moore as a member of the Permanent Court of International Justice, such resignation having been provisionally accepted by the Council of the League.

The Minister further states that he has been asked to inform the Secretary General what persons will constitute the National Group of Canada for the purpose of nominating candidates for the vacancy so created.

The Minister, therefore, recommends that the Right Honourable F. A. Anglin, Chief Justice of Canada, the Right Honourable Sir Robert L. Borden, G.C.M.G., the Honourable Sir Lomer Gouin, K.C.M.G., and the Right Honourable Sir William Mulock, K.C.M.G., Chief Justice of Ontario, be appointed a National Group within the meaning of the Statute for the Permanent Court of International Justice for the purpose of nominating on behalf of Canada candidates from whom a member of the Court representing Canada may be elected under the provisions of Articles 4-12 inclusive and Article 14 of the Statute to fill the vacancy referred to.

The Committee concur in the foregoing recommendation and submit the same for approval.

<sup>1</sup> Pour les instructions données à sir George Foster, voir le document 491.

<sup>1</sup> For the instructions issued to Sir George Foster, see Document 491.

519.

*Le secrétaire d'État aux Affaires extérieures au secrétaire général,  
Société des Nations*

*Secretary of State for External Affairs to Secretary General,  
League of Nations*

[Geneva,] September 3, 1928

[Sir,]

I am informed that, in the case of a majority of the Members of the League, the national groups have agreed in nominating the Honourable Charles Evans Hughes a member of the Permanent Court of International Justice, to complete the term of Mr. John Bassett Moore.

I am certain that, under these circumstances, the nominees of the Canadian national group, Mr. Justice Duff and Mr. Eugène Lafleur, would desire that their names be withdrawn. If it would help to ensure unanimity in the nomination of Mr. Hughes, I should be pleased if you would arrange to have the names of the Canadian nominees withdrawn.

[I have etc.]

W. L. MACKENZIE KING

520.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 13

Ottawa, January 23, 1929

CONFIDENTIAL. Proceedings of Imperial Conference, 1926, Interimperial relations report, section VII(a).<sup>1</sup> We have been considering further the advisability of acceptance of the Optional Clause under Article 36 of the Statute of the Permanent Court of International Justice providing for compulsory jurisdiction of the Court in legal disputes. The question was discussed last session in Canadian House of Commons, and we understand similar question has received attention by His Majesty's Government in Australia. The acceptance of peaceful settlement of legal disputes by reference to appropriate tribunal appears essential step toward establishing peace and removing fear and suspicion, and in harmony with notable pioneer efforts of His Majesty's Government in Great Britain in the field of international arbitration. The pledge given in the Kellogg pact to find pacific settlement of disputes confirms necessity of working out means to this end. Upon careful examination of objections we have not been able to see that they outweigh these considerations, and have concluded it would be desirable for Canada to

<sup>1</sup> Ollivier, *op. cit.*, Vol. III, pp. 156-157.

<sup>1</sup> Ollivier, *op. cit.*, Vol III, pp. 156-157.

accept the Optional Clause. In this case it would appear advisable to keep reservations to minimum. Presumably usual provisions for definite term and for reciprocity should be included. Reservation of domestic questions and reservation as to maritime law of war pending codification and in operations against violator of Covenant might be considered.

We should appreciate being informed whether recent developments have been leading others of His Majesty's Governments to somewhat similar conclusions or whether it is desired to comment upon above proposals. Similar telegrams to His Majesty's Governments in Australia, South Africa, New Zealand, and Irish Free State.

521.

*Le secrétaire aux Dominions au Secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM 10

London, February 9, 1929

IMPORTANT. SECRET. Arbitration Convention with the United States. We are most grateful for very valuable and helpful observations contained in your telegram of the 23rd January, No. 12,<sup>1</sup> and also for your telegram No. 13 of the same date, with regard to the question of the acceptance of the optional clause of Article 36 of the Statute of the Permanent Court of International Justice. His Majesty's Government in the United Kingdom share the view that these questions are closely linked but are of the opinion that question of optional clause could most usefully be considered after conclusion has been reached as to the general policy to be adopted in regard to the renewal of existing and conclusion of fresh arbitration treaties.

The latter question turns largely on policy to be adopted in regard to belligerent rights at sea, while it will be recalled that in exchange of views in regard to optional clause question of belligerent rights has *inter alia* been regarded as of great importance. But it is in connection with United States Arbitration Treaty that question of belligerent rights assumes its most important and immediate aspect, and it is this consideration which disposes His Majesty's Government in the United Kingdom to the view that it would be desirable to postpone until a later stage consideration of question of optional clause.

We are now engaged in a special study of our relations with the United States in which we recognize question of arbitration will necessarily exercise an all important influence, and in our study of this problem are deriving great assistance from views and suggestions contained in your telegrams under reference, and in replies received from the other Dominions in response to our original enquiry. We are endeavouring to complete this stage of examination at the earliest possible moment and hope then to telegraph a summary of conclusions indicated by trend of present discussion. In view of vital impor-

<sup>1</sup> Document 465.

<sup>1</sup> Document 465.

tance of issue at stake, we feel that it will be essential that there should be further exchange of views between all His Majesty's Governments before any decision is come to in general field of arbitration and conciliation.

The sense of above is being communicated to His Majesty's Government in the Commonwealth of Australia, His Majesty's Government in New Zealand His Majesty's Government in the Union of South Africa, His Majesty's Government in the Irish Free State, and His Majesty's Government in Newfoundland.

522.

*Le ministre aux États-Unis au secrétaire d'État aux Affaires extérieures*  
*Minister in United States to Secretary of State for External Affairs*

DESPATCH 413

Washington, February 20, 1929

Sir,

I have the honour to enclose a copy of a note dated February 19th. from the Secretary of State concerning the adhesion by the United States to the Protocol of Signature of the Statute of the Permanent Court of International Justice. I understand that identical notes have been addressed by Mr. Kellogg to the representatives in Washington of all Governments which are members of the World Court.

2. The substance of the present communication is that the Protocol which was drawn up at the Geneva Conference of 1926 to deal with the reservations of the United States does not furnish adequate protection to the United States in regard to the second part of the fifth reservation, which requires that the Court should not entertain requests for advisory opinions without the consent of the United States in questions in which the United States has or claims an interest. The Secretary of State, however, suggests that an informal exchange of views between the twenty-four Governments which have accepted the Protocol of 1926 might well lead to agreement "upon some provision which in unobjectionable form would protect the rights and interests of the United States as an adherent to the Court Statute".

3. The enclosed note is the first formal move taken by the Government of the United States since early in 1926 in regard to the adhesion of the United States to the Court. It should be considered in relation to the recent departure for Europe of Mr. Elihu Root to attend the Conference at Geneva which is to discuss the revision of the Court Statute. While Mr. Root's visit, in a technical sense, is strictly unofficial, I understand that before his departure he discussed with President Coolidge and Mr. Kellogg the whole situation in regard to the Court.

4. I shall not acknowledge the receipt of this note until I have received instructions from you.

I have etc.

VINCENT MASSEY



## [PIÈCE JOINTE/ENCLOSURE]

*Le secrétaire d'État des États-Unis au ministre aux États-Unis*  
*Secretary of State of United States to Minister in United States*

Washington, February 19, 1929

Sir,

Reference is made to my note of February 12, 1926, addressed to the British Ambassador, with which I enclosed a copy of the Senate Resolution of January 27, 1926, giving its advice and consent to the adherence on the Part of the United States to the Protocol of Signature of the Statute of the Permanent Court of International Justice on the conditions, reservations and understandings contained in the Resolution. In that note I inquired whether the Ambassador would be good enough to ascertain whether the Government of Canada would accept the conditions, reservations and understandings contained in the Senate Resolution as a condition to the adherence of the United States to the Protocol and Statute.

Five Governments unconditionally accepted the Senate reservations and understandings, three indicated that they would accept but have not formally notified my Government of their acceptance, fifteen simply acknowledged the receipt of my Government's note of February 12, 1926, while twenty-four have communicated to my Government replies as hereinafter indicated.

At a conference held in Geneva in September 1926 by a large number of the States signatories to the Protocol of Signature of the Statute of the Permanent Court of International Justice, a Final Act was adopted in which were set forth certain conclusions and recommendations regarding the proposal of the United States, together with a preliminary draft of a Protocol regarding the adherence of the United States, which the Conference recommended that all the signatories of the Protocol of Signature of December 16, 1920, should adopt in replying to the proposal of the United States. Twenty-four of the Governments adopted the recommendations of the Conference of 1926 and communicated to the Government of the United States in the manner suggested by the Conference. By these replies and the proposed Protocol attached thereto the first four reservations adopted by the Senate of the United States were accepted. The fifth reservation was not accepted in full but so much of the first part thereof as required the Court to render advisory opinions in public session was accepted, and the attention of my Government was called to the amended rules of the Court requiring notice and an opportunity to be heard.

The second part of the fifth reservation therefore raised the only question on which there is any substantial difference of opinion. That part of the reservation reads as follows:

... Nor shall it (the Court) without the consent of the United States entertain any request for any advisory opinion touching any dispute or question in which the United States has or claims an interest.



It was observed in the Final Act of the Conference that, as regards disputes to which the United States is a party, the Court had already pronounced upon the matter of disputes between a member of the League of Nations and a State not a member, and reference was made to advisory opinion No. 5 in the Eastern Carelia case in which the Court held that it would not pass on such a dispute without the consent of the non-member of the League. The view was expressed that this would meet the desire of the United States.

As regards disputes to which the United States is not a party but in which it claims an interest, the view was expressed in the Final Act that this part of the fifth reservation rests upon the presumption that the adoption of a request for an advisory opinion by the Council or the Assembly requires a unanimous vote. It was stated that since this has not been decided to be the case it can not be said with certainty whether in some or all cases a decision by a majority may not be sufficient but that in any case where a State represented on the Council or in the Assembly would have a right to prevent by opposition in either of these bodies the adoption of a proposal to request an advisory opinion from the Court, the United States should enjoy an equal right. Article 4 of the draft Protocol states that "should the United States offer objection to an advisory opinion being given by the Court, at the request of the Council or the Assembly, concerning a dispute to which the United States is not a party or concerning a question other than a dispute between States, the Court will attribute to such objection the same force and effect as attaches to a vote against asking for the opinion given by a member of the League of Nations either in the Assembly or in the Council", and that "the manner in which the consent provided for in the second part of the fifth reservation is to be given" should be the subject of an understanding to be reached by the Government of the United States with the Council of the League of Nations.

The Government of the United States desires to avoid in so far as may be possible any proposal which would interfere with or embarrass the work of the Council of the League of Nations, doubtless often perplexing and difficult, and it would be glad if it could dispose of the subject by a simple acceptance of the suggestions embodied in the Final Act and draft Protocol adopted at Geneva on September 23, 1926. There are, however, some elements of uncertainty in the bases of these suggestions which seem to require further discussion. The powers of the Council and its modes of procedure depend upon the Covenant of the League of Nations which may be amended at any time. The ruling of the Court in the Eastern Carelia case and the rules of the Court are also subject to change at any time. For these reasons, without further inquiry into the practicability of the suggestions, it appears that the Protocol submitted by the twenty-four Governments in relation to the fifth reservation of the United States Senate would not furnish adequate protection to the United States. It is gratifying to learn from the proceedings of the

Conference at Geneva that the considerations inducing the adoption of that part of Reservation 5 giving rise to differences of opinion are appreciated by the powers participating in that Conference. Possibly the interest of the United States thus attempted to be safeguarded may be fully protected in some other way or by some other formula. The Government of the United States feels that such an informal exchange of views as is contemplated by the twenty-four Governments should, as herein suggested, lead to agreement upon some provision which in unobjectionable form would protect the rights and interests of the United States as an adherent to the Court Statute, and this expectation is strongly supported by the fact that there seems to be but little difference regarding the substance of these rights and interests.

Accept etc.

FRANK B. KELLOGG

523.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 41

Ottawa, March 7, 1929

SECRET. Optional Clause and Arbitration Convention with United States. We have read with interest your telegram No. 10 of 9th February pointing out that question of advisability of reservation as to belligerent rights which is involved in consideration of Optional Clause question is raised in more immediate form in connection with Arbitration Treaty with United States and that latter point is now receiving special study and that conclusions reached will shortly be telegraphed. We note suggestion that it would therefore be desirable to postpone consideration of question of Optional Clause which is concurred in by New Zealand and South Africa Governments. We have also noted with interest the conclusions reached by the Australian Government in favour of signature of Optional Clause with reservations of a general character.

We are pleased to learn that study is being made of United States relations including the question of arbitration, and are quite prepared to defer further consideration of Optional Clause until opportunity has been given for considering the United States phases of the general question of arbitration and conciliation.

524.

*Le Conseiller au sous-secrétaire d'État aux Affaires extérieures*  
*Advisory Officer to Under-Secretary of State for External Affairs*

Geneva, April 3, 1929

My dear Dr. Skelton,

I beg to forward to you herewith the following documents in connection with the Committee of Jurists on the Statute of the Permanent Court of International Justice . . . .

Extracts from the provisional Minutes of the Committee of Jurists relative to the question raised by Sir Cecil Hurst in connection with Article 31 . . . .

In an interview which I had with Sir Eric Drummond recently he seemed annoyed that the question should have been raised in the Committee. He acknowledged that he was not very familiar with the details of the discussion as he had not yet seen a copy of the Minutes, but from what he had learned he thought that the opposition of M. Politis should not be taken too seriously.

Yours sincerely,

W. A. RIDDELL

[PIÈCE JOINTE/ENCLOSURE]

*Extraits du procès-verbal provisoire du Comité des juristes*  
*Extracts from Provisional Minutes of Committee of Jurists*

Fourteenth Meeting

March 19, 1929

INTERPRETATION OF ARTICLE 31: POINT RAISED BY SIR CECIL HURST

Sir Cecil Hurst asked that mention should be made in the report of a point of special interest to the British Empire. It concerned the interpretation of the word "nationality" in the first line of Article 31 of the Statute. He desired, on behalf of the British Dominions, that this article should be interpreted to mean that it did not exclude the right of a Dominion to appoint an *ad hoc* judge to the Court should an English judge be also a member. He had originally proposed an amendment to this effect, but a close study of the Statute had convinced him that such a course was no longer necessary and that, the interpretation which he put upon the Statute, without being the only possible interpretation, was the one which was in fact correct. The point which he desired to make perfectly clear was that the word "nationality" in

Article 31 should bear the same meaning as the word "national" (ressortissants) in the third paragraph of Articles 26 and 27 which were to the following effect:

Article 26 . . . .

If there is a national of one only of the parties sitting as a judge in the Chamber referred to in the preceding paragraph, the President will invite one of the other judges to retire in favour of a judge chosen by the other party in accordance with Article 31 . . .

Article 27 . . . .

If there is a national of one only of the parties sitting as a judge in the Chamber referred to in the preceding paragraph, the President will invite one of the other judges to retire in favour of a judge chosen by the other party in accordance with Article 31 . . .

It seemed perfectly clear to him that the word "nationality" in Article 31 should be interpreted in the sense given to the word "national" in the foregoing passages.

There were the following other articles in the Statute which corroborated his view. Article 4, paragraph 2, laid down the conditions under which lists of candidates for election to the Court should be submitted. They were to be drawn up by national groups appointed for this purpose by their Governments "under the same conditions as those prescribed for members of the Permanent Court of Arbitration by Article 44 of the Convention of the Hague of 1907." At that date the British Government had acted for all the Dominions which had consequently possessed no national groups. The procedure in Article 4 had been applied in the British Empire since 1920, which showed once more that in the matter of nationality as understood for the purposes of the Court the British Dominions were distinct from the Metropolis.

The second paragraph of Article 5 was to the following effect:

No group may nominate more than four persons, not more than two of whom shall be of their own nationality.

Here again it was clear that the word "nationality" was used in the sense of the word "national" in Articles 26 and 27.

Again, the second paragraph of Article 10 stipulated that,

In the event of more than one national of the same Member of the League being elected by the votes of both the Assembly and the Council, the eldest of these only shall be considered elected.

This paragraph meant that there was nothing to prevent the election of, for example, an English and a Canadian judge at the same time, because the Englishman did not possess Canadian nationality and *vice versa*.

Finally, Rule 71 of the Court stipulated that

On a question relating to an existing dispute between two or more States or Members of the League of Nations, Article 31 of the Statute shall apply.

This showed that the mere presence of an English judge would not prevent the appointment of a Canadian *ad hoc* judge.

In view of these considerations, Sir Cecil Hurst thought that any amendment was superfluous and further that it would be bad policy, because the meaning of the word "nationality" in Article 31 was quite clear.

When he had first raised the matter<sup>1</sup>, he had encountered the opposition of M. Politis. No other member of the Committee except M. Raestad had expressed his views, and M. Raestad had agreed with Sir Cecil Hurst. Sir Cecil had therefore been under the impression that, with the exception of M. Politis, the Committee agreed with his view. It now appeared, however, that M. Politis was equally convinced that with the exception of Sir Cecil Hurst and M. Raestad the Committee supported the opposite contention. It was therefore with the object of settling the matter that he had raised the question. All that Sir Cecil Hurst now asked for was that this interpretation should be mentioned in the Committee's report. To do so would satisfy the British Dominions.

M. Politis agreed with the view of Sir Cecil Hurst as to what had taken place in the Committee when the point had been originally raised. M. Politis himself had had exactly the contrary impression to that of Sir Cecil Hurst. For that reason he was grateful to his British colleague for having raised the matter again in order that the views of the Committee should be definitely ascertained.

Sir Cecil Hurst had originally proposed that Article 31 should be amended. Now he wished his interpretation to be mentioned in the minutes and in the report. If the Committee agreed to this procedure, and if it accepted the interpretation of Article 31 proposed by Sir Cecil Hurst, then M. Politis would ask that those members, including himself, who disagreed with this interpretation should also be allowed to say so in the Committee's report.

To pass from matters of procedure to a discussion of the merits of the question, M. Politis would raise the following objections to the interpretation of Sir Cecil Hurst.

In the first place, the very least that the Committee would have to fear was that small countries not belonging to a combination of States such as the British Empire would hesitate and perhaps refuse to accede to Article 36 of the Statute (the optional clause). His own country was an example. Greece was on the point of acceding to that clause but would certainly not do so if the Committee accepted Sir Cecil Hurst's interpretation of Article 31. In fact, M. Politis would formally advise his Government against taking any such step. The reason was fairly obvious. Under Sir Cecil Hurst's interpretation Greece, if she had a dispute with a British Dominion, would find herself in the position of possible inequality . . . .

M. Politis would strongly urge the Committee to reflect on the gravity of the situation which might arise were it to adopt the interpretation of Sir Cecil Hurst without at the same time providing any form of palliative.

<sup>1</sup> Le 16 mars 1929, au cours de la onzième réunion du comité.

<sup>2</sup> On March 16, 1929, at the eleventh meeting of the Committee.



To return, in conclusion, to the question of procedure, M. Politis asked that if the Committee inserted Sir Cecil Hurst's interpretation on Article 31 in its report, it should also insert the formal reservations which he had made to such an interpretation.

M. Fromageot considered that much wisdom and ingenuity had been shown both by Sir Cecil Hurst and M. Politis. A preliminary question should, however, be settled. Was it within the terms of reference of the Committee to give its opinion in regard to the interpretation of any article of the Statute? M. Fromageot considered that it would be rash to do so. Many other articles besides Article 31 might give rise to different interpretations, and the Committee, if it sought to provide them might embarrass the Court.

To refer to the merits of the question, M. Fromageot considered that if the interpretation of Sir Cecil Hurst were adopted, the Committee might go too far and open the door to great abuses. On the other hand, if it agreed with M. Politis, grave injustices might be done to the British Dominions. The matter should, in the view of M. Fromageot, be regarded from the practical point of view and from that alone. What was desired was that the Court should work easily and effectively. If this view were adopted, it would be seen that Article 31 might reasonably be expected to apply in a case in which a Dominion might have a special point in dispute of a nature peculiar to itself. In those circumstances an *ad hoc* judge belonging to that Dominion would be of great assistance to the Court, for it was an admitted principle that the Court should be aided by national judges. In a special case, therefore, it was of great importance not only to the Dominion concerned but also to the Court for an *ad hoc* judge to be appointed. If, however, the question under dispute was of a more general kind and did not affect solely the interest of the Dominion concerned, then there was no reason why several judges belonging to the British Empire should sit upon the Court . . .

The Vice-Chairman said that it was obvious from the discussion that the interpretation proposed by Sir Cecil Hurst would not be unanimously adopted and further that members considered that it was outside the terms of reference of the Committee to seek to interpret any article. With this view the Vice-Chairman agreed.

The Committee should therefore close this discussion, a record of which would be available in the minutes. That record would certainly be of great interest if the problem arose.

M. Politis said that he had no objection in principle to the proposal of the Vice-Chairman, which would have the effect of ending the discussion on the question raised by Sir Cecil Hurst, provided that it were placed upon the minutes. He wondered, however, whether the President or Vice-President of the Court should not first be asked whether they had ever contemplated in any particular case the application of the provisions of Article 24 of the Statute.

Sir Cecil Hurst said he desired to make a declaration before the Committee complied with the suggestion of M. Politis. In his opinion, the moment it appeared that there were differences of opinion within the Committee, the

solution of the problem would have to be found outside the Committee. It did not seem to him that the Committee had the necessary competence to declare an opinion on the question, unless there was an unanimous agreement on the subject. The only competent authority to settle the question would be the Court itself, and it did not seem to him desirable to ask the President and Vice-President of the Court their views on a problem which the Court might itself perhaps be called upon to settle in the ordinary course of its duties.

He was quite prepared to withdraw his request that a reference to the problem which he had raised should be made in the minutes of the Committee, but in that case he thought that the position of his Government and of the Governments of the Dominions would not be in any way prejudiced by the discussions which had taken place in the Committee.

The Vice-Chairman asked whether the President of the Court was prepared to say whether Article 24 had ever been applied in practice.

M. Anzilotti said that Article 24 had never been formally applied.

M. Politis said he did not desire to press his proposal. He would add that it had never been his intention in any way to infringe upon the rights of the Dominions. He was merely anxious to reserve for the Court the high reputation of impartiality which was necessary for its efficiency and success.

M. Root said that he had no wish to revive the discussion. He would like, however, to place on record the fact that the United States had recognised the separate international personality of the Dominions by sending and receiving Ministers from Canada and the Irish Free State.

525.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM B. 79

London, June 22, 1929

CONFIDENTIAL. Following from Prime Minister to your Prime Minister. Begins. Since our assumption of office, my colleagues and I have given preliminary consideration to question of attitude to be adopted with regard to the possible acceptance of the Optional Clause of Statute of the Permanent Court of International Justice, which was discussed in correspondence with Dominion Governments earlier this year. Our feeling is that the time has now come when an advance should be made in accepting an obligation to submit international disputes of a legal character to judicial settlement. We appreciate that some reservations may be found necessary but we hope that the number may be small.

We are at present examining suggestions as to possible reservations which have been made from time to time with a view to determining which should be regarded as essential, and further communications will be sent to Domin-

ion Governments as soon as this examination is completed. We are of course taking into account suggestions which have already been made by Dominion Governments.

It will be necessary to give an intimation of our general attitude at an early date and it is accordingly proposed that a statement should be made at the opening of Parliament that His Majesty's Government in the United Kingdom are in consultation with His Majesty's Governments in the Dominions and Government of India with the object (?) of securing a general agreement to sign Optional Clause embodied in Statute of the Permanent Court of International Justice. Ends.

526.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 127

Ottawa, July 19, 1929

CONFIDENTIAL. Following from Prime Minister to your Prime Minister. Begins. Your telegram Circular B. 79, June 22nd. We have learned with interest that His Majesty's Government in the United Kingdom have been considering whether they should accept the Optional Clause of the Statute of the Permanent Court of International Justice and that they feel that the time has now come to accept the obligation to submit international disputes of a legal character to judicial settlement. As you are aware from our telegram No. 13 of the 23rd January, 1929, His Majesty's Government in Canada had concluded some time ago that it was advisable that Canada should accept the Optional Clause. The question as to possible reservations is receiving consideration. Ends.

527.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM 113

London, August 1, 1929

CONFIDENTIAL. Following from Prime Minister for your Prime Minister. Begins. I am much obliged for your message of the 19th July as to the Optional Clause, and observe with interest that His Majesty's Government in Canada are studying the question of possible reservations. I am sending a separate message as to the views which we ourselves have formed as a result of our examination of this question. I think it will be found that our sugges-

tions deal with all the matters mentioned in your telegram No. 13 of the 23rd January as those which might form the subject of possible reservations. You will see also that we propose to include a reservation in respect of matters as to which parties have agreed or shall agree to have recourse to some other method of peaceful settlement. We had, of course, in mind views which you have expressed both at Geneva and elsewhere as to the value of procedure analogous to that of the International Joint Commission in the settlement of international disputes, but it is advisable to make it clear that we do not by signing Optional Clause intend to encroach on the jurisdiction of existing tribunals which have been set up to deal with particular classes of disputes or to exclude the appointment of such tribunals in the future. We trust our conclusions will commend themselves to the Canadian Government. Ends.

528.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 138

Ottawa, August 9, 1929

CONFIDENTIAL. Your telegram 22nd June Circular B. 79. Following from Prime Minister for your Prime Minister. Begins. We note from your telegram Circular B. 108 of 1st August that His Majesty's Government in the United Kingdom has completed examination of the question of possible acceptance of the Optional Clause and has drafted a form of declaration which it is considered will cover all essential points.

We have examined this suggestion with interest, in conjunction with our own preliminary conclusions and the telegrams received from His Majesty's other governments in response to the intimation given in our telegram of January 23, 1929, of our proposal to accept the Optional Clause. We agree on the desirability of keeping reservations to the minimum. With regard to questions of domestic jurisdiction, we have concluded that since questions of law and fact rather than of policy are involved, and since it is quite clear that under the established principles of international law such questions fall solely within the authority of the state concerned, it does not appear necessary to make any specific reservation on this subject.

As to the period, we had considered ten years and thereafter until notice of termination would be desirable as affording opportunity for reviewing developments, but the question of the period is not of first importance. We have also concluded that it is desirable to make the usual provisions as to reciprocity. We agree with your view as to points 6 and 7 regarding disputes arising subsequent to ratification and disputes for which some other method of peaceful settlement is agreed upon by parties.



In view of previous discussion of the question we had considered that some reservation as to maritime law in war might be proposed. We recognize that this is a question of special importance for His Majesty's Government in the United Kingdom. To meet the objection which has been raised that the law as to belligerent rights to be applied by the Court is uncertain, it had occurred to us that if a reservation on this point were required it might appropriately take the form of a reservation pending codification or international agreement. The suggestion contained in point 8 reserving the right to require suspension of proceedings in court in respect of any dispute submitted to and under consideration by the Council has the advantage of avoiding any explicit reference to belligerent rights. On the other hand its scope is so wide that if adopted in unqualified form by the various countries adhering to the Optional Clause it might prevent rather than facilitate a definite solution of legal disputes. The questions concerned are matters of law and fact and not matters of policy. Generally speaking a Court appears more suitable for their solution than a political body such as the Council. We agree however that preliminary conciliation efforts by the Council might in some cases be appropriate and would at least serve the purpose of averting war if not of settling the dispute. There is however the possibility that in the event of a lack of unanimity on the Council the question might remain indefinitely before it and the jurisdiction of the Court be indefinitely suspended. It might therefore be considered whether in the event of making such a reservation a time limit to the suspension of the Court's action should be set.

Copies of this telegram are being sent to His Majesty's Governments in Australia, New Zealand, South Africa and the Irish Free State.

529.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM B. 119

London, August 20, 1929

IMPORTANT. CONFIDENTIAL. My telegram 1st August, Circular B. 108, Optional Clause. Having regard to the various points which have been raised in replies we think that it would be helpful if an early discussion of these matters between representatives of His Majesty's Governments could be arranged. Would it be possible for representative to be appointed to attend meeting in London on Monday, 26th August, and if so who would representative be? Secretary of State for Foreign Affairs due to leave London on Wednesday, 28th August, in order to attend League Council meeting.



530.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM 120.

London, August 21, 1929

CONFIDENTIAL. Your telegram 9th August, No. 138, Confidential. Following from Prime Minister for your Prime Minister. Begins. We are glad to know that such a great measure of agreement exists between His Majesty's Governments in the United Kingdom and Canada concerning the proposed formula for signature of the Optional Clause. With regard to the various points which you raise our observations are as follows:

1. Concerning reservation of belligerent rights we decided to propose the plan contained in point 8 of the formula (suspension of Court proceedings pending consideration by the Council) for the following reasons:

We had carefully considered suggestion that arbitration should be confined to disputes relating to matters as to which a rule of law recognized by both parties exists, as we appreciate the difficulties resulting from absence of codification of international law on many important issues, particularly as regards belligerent rights at sea. We feared, however, that the reservation on the lines suggested might be regarded as so wide as to render it possible to exclude from arbitration practically every question, and thus to defeat the object of accepting the Optional Clause. We, therefore, preferred the alternative method of dealing with important question of disputes arising from belligerent actions which is contained in point 8 of the formula.

2. With regard to period of acceptance, we originally desired to sign without any time limit at all, considering this to be in keeping with the Kellogg Pact, which contains no time limit. Thinking that this might not be acceptable to all, we desired at least to accept for as long a period as any other signatory, believing that this would add to the moral value of our signature, and would exclude profitless controversy at recurring intervals. We, therefore, decided to suggest acceptance for 15 years, the period stipulated by Germany, with automatic extensions. If, however, His Majesty's Governments in the Dominions have strong views on the point, it could be discussed further.

3. With regard to point 8, we do not believe that the power of suspension would ever be exercised except in genuine political cases, since the parties to a dispute would know that the legal questions must in the end be settled by the Court. Nor do we believe that the Council would permit the right of

suspension to be abused. On the contrary, we are convinced that the Council could be relied on to determine when its consideration of a question was at an end.

For these reasons we trust that you may perhaps agree that the time limit to suspension which you propose is not required.

This telegram is being repeated to Commonwealth of Australia, New Zealand, Union of South Africa, and Irish Free State. Ends.

531.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM 123

London, August 28, 1929

IMMEDIATE. CONFIDENTIAL. Optional Clause. Prime Minister has today sent following message to the Prime Minister of the Commonwealth of Australia and the Prime Minister of New Zealand. Begins. I was very glad to have the opportunity of discussing yesterday the question of acceptance of the Optional Clause. Representatives of the Commonwealth of Australia, New Zealand, Union of South Africa and Irish Free State as well as several members of the Cabinet here, including the Secretary of State for India, were present. I was very sorry circumstances rendered it impossible for Canada to be represented.

The present position appears to be that all His Majesty's Governments are desirous of accepting the Optional Clause subject to reservation, which they would regard as satisfactory, and that while the majority of His Majesty's Governments would regard a declaration on the lines of that proposed in my message of the 1st August (see telegram Circular B.108) as in principle adequate, His Majesty's Governments in the Commonwealth of Australia and New Zealand feel that they require a further time for consideration of certain points. These have been specified in previous correspondence which is already available to all His Majesty's Governments.

As was explained at meeting, present international situation accentuates desirability that definite action in this matter should be taken at the forthcoming Assembly of the League of Nations. Everyone present was, I think, impressed with the desirability of this and everyone also felt that it would be most unfortunate if on a matter of this kind it were found impossible to reconcile divergence of views between several members of the British Commonwealth, and if in result the Optional Clause were signed on behalf of certain of His Majesty's Governments and not on behalf of the others.

After a full discussion how this could be done and yet meet the position of His Majesty's Governments in Australia and New Zealand it was agreed that the following method might be pursued. That all parts of the British Empire would sign with reservation proposed by His Majesty's Government in the

United Kingdom, but in announcing this it should be stated that certain points were still under negotiation and might have to be added between signature and ratification. It was further agreed to recommend that delegations should confer at Geneva to try and get a complete agreement, but that if that could not be reached, that negotiations should be continued between Prime Ministers so that ratification might not be unduly delayed.

I trust that representatives at Geneva may be authorized to continue discussions as proposed above. It was arranged that a further meeting should be held at Geneva on Sunday, 1st September, of all delegations, and I very much hope that representatives may be fully instructed by then. I do not like to appear too pressing, but the splendid harmony of the Conference today and the impression made by the case, as stated, for real action at Geneva itself makes me bold to do so. Commonwealth of Australia No. 152, New Zealand No. 102, repeated to Canada No. 123, Union of South Africa No. 86 and Irish Free State. Ends.

532.

*Le secrétaire d'État aux Affaires extérieures au Conseiller*  
*Secretary of State for External Affairs to Advisory Officer*

TELEGRAM 431

Ottawa, August 30, 1929

IMMEDIATE. CONFIDENTIAL. Following for Senator Dandurand. Begins.

1. Question of signature of Optional Clause has been subject of further discussion with His Majesty's other Governments. A meeting was held in London Aug. 28 at which we were not represented and it is proposed to hold meeting between League delegations, Geneva, on Sunday, Sept. 1. Summary of proposals made hitherto is as follows:

2. (a) British Government on Aug. 1 stated it proposed to make following declaration at forthcoming Assembly which it hoped other Commonwealth Governments could accept:

(1) On behalf of His Britannic Majesty's Government in the United Kingdom and subject to ratification, I accept (2) For 15 years and thereafter until such time as notice may be given to terminate the acceptance, (3) In relation to any other states accepting the same obligations, (4) The jurisdiction of the Court as compulsory (5) In all international disputes comprised in the categories mentioned in Article 36 of the Statute (6) Arising after ratification of present declaration, with regard to situations or facts subsequent to said ratification, (7) Other than disputes in regard to which parties have agreed or shall agree to have recourse to some other method of peaceful settlement, (8) And subject to proviso His Britannic Majesty's Government reserve the right to require that proceedings in Court shall be suspended in respect of any dispute which has been submitted to, and is under consideration by, the Council of the League of Nations.

Position of British Government further explained in telegrams to Ottawa Aug. 21, to Canberra Aug. 24, to Pretoria Aug. 28, and Dublin Aug. 29 proposing to substitute word "foreign" in point 4 for "international" in point 5.

(b) Australian Government in telegrams Aug. 15 and 16 objected to accepting compulsory jurisdiction of Court except in cases where international law codified and legal rules agreed upon, also insistent that disputes between members of Commonwealth should not go before Court and doubtful whether use of term "international" in British draft point 5 would be sufficient to prevent this, and proposed postponement till next Imperial Conference.

(c) New Zealand, Aug. 10, also urged postponement till Imperial Conference or Experts' Committee in October to secure unanimous action.

(d) Irish Free State, Aug. 22, objected to point 5 in draft declaration as not consistent with terms of Article 36 and to point 8 as defeating whole object of arbitration agreement.

(e) South Africa, Aug. 24, stated prepared to accept jurisdiction under conditions set forth in British draft but agree with Britain and Australia as to desirability of excluding application to members of British Commonwealth, suggesting this be effected not by explicit reservation in instrument but by special agreement between Commonwealth members.

(f) Canada, Aug. 9, emphasized desirability of keeping reservations to minimum, agreed reservation as to domestic jurisdiction unnecessary, preferred ten to fifteen year period, suggest meeting difficulty as to arbitration of belligerent rights by reservation pending codification or international agreement in this field, and objected to point 8 as legal disputes more properly referred to Court than Council and reference to Council might block settlement indefinitely.

3. The position of the Canadian Government is: First, that we are desirous, as repeatedly stated, of signing the Optional Clause with the minimum of reservations. Second, that, hoping that all members of the British Commonwealth of Nations would take similar action, we agreed in 1926 not to take action before consultation with His Majesty's other governments, and while not considering it essential that no one of His Majesty's Governments should sign unless simultaneous action is taken by all, or that identical declaration should be adopted, we are desirous of the further consultation which may be afforded by the proposed discussion at Geneva. Third, we agree as to the desirability of reservations regarding (a) reciprocity, (b) limited term of years, as to which ten would be preferable to fifteen though point not material, (c) limitation to questions and situations arising after ratification, and (d) exception where another method of pacific settlement is adopted by agreement of both parties. Fourth, that we do not consider that the objections to point 8 in declaration proposed by British Government in telegram of Aug. 1 which were raised in our telegram of Aug. 9, or objections to point 5 raised in Irish Free State telegram of Aug. 22, have been



met. Fifth, as to point 5, His Majesty's Government in Canada does not contemplate the reference to the Permanent Court of any legal dispute which might arise with another member of the British Commonwealth of Nations and member of the League, and considers it improbable that any such reference would be made by any such member without agreement on the part of both governments concerned. It is not apparent, however, that any formal reservation on this point is necessary, particularly in view of the reservation covering cases where other methods of settlement are adopted, and not clear that any formal reservation would be consistent with Article 36 of the Statute of the Permanent Court providing for acceptance of the obligations of the Optional Clause "in relation to any other member or state accepting the same obligation" with the one recognized limitation to members accepting the same obligation. It would be impossible to accept exclusion by use of term "international" which would be open to interpretation implying Dominions not possessing full national status. If conclusive reasons for necessity of a reservation and of consistency with the provisions of Article 36 were established, an explicit reservation of disputes with other signatory members of the Commonwealth or substitution of term 'foreign' would appear preferable. Sixth, as to point 8, we recognize the force of views expressed by British telegram to Australian Government of Aug. 24 against proposal to reserve cases involving belligerent rights until codification or international agreement attained. In view of summary of position as to belligerent rights under Covenant and Kellogg Pact contained in British telegram B.108 of Aug. 1, necessity for any reservation on this point is not apparent, though on this phase we should be prepared to accept the conclusions of His Majesty's Government in the United Kingdom. If necessity established, however, we are not convinced of the desirability of adopting the method suggested in proviso 8. The most the situation would appear to warrant would be a reservation providing that in cases where action by government was taken in accordance with the obligations of the Covenant, or less desirably, in accordance with the recommendations of the Council, right might be reserved to refer disputes arising therefrom to the Council for a limited period, say, six months or a year. Seventh, the procedure suggested in British telegram of Aug. 28 namely that all members of Commonwealth should sign next week with reservations proposed by British Government but in announcing this state that certain points were still under negotiation and might have to be added between signature and ratification, would not be satisfactory. Canadian Government does not wish to sign or make any further announcement until form of its declaration is definitely determined, so that it can be certain what it is undertaking. We have already at Geneva and in Parliament placed on record our sympathy with arbitration of legal disputes as provided by Optional Clause, and do not wish to make any further announcement whatever, until final action possible.

4. Substance of above cabled to Dominions Office today.

5. Please report for consideration immediately after Sunday meeting position of Governments represented. [Ends.]



533.

*Le secrétaire d'État aux Affaires extérieures au Conseiller*  
*Secretary of State for External Affairs to Advisory Officer*

TELEGRAM 46

Ottawa, September 3, 1929

IMMEDIATE. CONFIDENTIAL. Following for Senator Dandurand. Begins. Your telegram No. 75 of Sept. 2 regarding Optional Clause. We have no objection to MacDonald making proposed declaration provided that you make brief statement as to Canada's acceptance immediately after, (in view of Canada's priority in acceptance of Optional Clause). We should have preferred MacDonald restricting his statement to announcement of intention of his own Government to sign but in view of fact that all delegations have recommended allowing him to make statement as set forth in your telegram we concur. It is understood that this does not bind us to adopt the same reservations, though effort will be made to bring about as much agreement as possible. Your statement in Assembly should make it clear that our action in accepting Clause is in conformity with announcement made by Prime Minister in 1925 of Canada's readiness to consider acceptance of compulsory jurisdiction of Permanent Court, quoting section 3 of his telegram of 10th March, 1925, to Secretary-General, and in conformity with his announcement in Parliament in February of this year that Canada had advised the other members of the British Commonwealth of its intention to sign the Optional Clause.

It will probably be advisable to make no reference at this stage to reservations. We had considered most effective solution of the difficulty which has been raised as to disputes with other members of the British Commonwealth might be to omit any formal reservation but for you to state to Assembly when announcing intention to sign Optional Clause that our declaration would include the usual provision for recourse by agreement to other methods of peaceful settlement, and that in accordance with this provision the Canadian Government contemplates adopting such other methods of settlement in connection with any question which may arise with any other member of the British Commonwealth of Nations accepting the Clause. In view of desirability of early statement in Assembly of Canada's acceptance of Clause, and of fact that reservations are not yet definitely determined, it would appear desirable to postpone statement on this latter point to a later session of Assembly.

534.

*Le premier ministre d'Australie au Premier ministre*  
*Australian Prime Minister to Prime Minister*

TELEGRAM

Canberra, September 6, 1929

IMMEDIATE. PERSONAL AND CONFIDENTIAL. Press reports here indicate that the statement of your representative at the League Assembly re the

Optional Clause assumed the form of a declaration that Canada had for some considerable time past been desirous of signing and had only refrained owing to agreement arrived at at Imperial Conference of 1926. This statement must create the impression that His Majesty's other Governments were less anxious than Canada to find a basis upon which the Optional Clause could be adhered to. I suggest that a statement of this character places all other of His Majesty's Governments in an invidious position and may defeat the object sought to be obtained by consultation now taking place as to a formal declaration in regard to the necessary reservations. This statement indicates divergent views of His Majesty's respective Governments, in the present case appearing to me particularly unfortunate both from the point of view of the Empire itself, and also in the moral effect upon other nations of the Empire's action in regard to the Optional Clause. In view of the possibility of form of statement to which I have referred rendering more difficult that close co-operation between our respective representatives at Geneva which we desire to see, I have brought this matter under your notice.

535.

*Le secrétaire d'État aux Affaires extérieures  
au premier ministre d'Australie*

*Secretary of State for External Affairs to Australian Prime Minister*

TELEGRAM

Ottawa, September 7, 1929

PERSONAL AND CONFIDENTIAL. I am very glad you have called my attention in your telegram of yesterday to press reports received in Australia indicating that in the announcement of the Canadian representative in the Assembly regarding the Optional Clause it was stated that Canada had for some considerable time past been desirous of signing and had only refrained owing to the Agreement arrived at in the Imperial Conference of 1926. This report does not correctly represent the situation nor can we find in Senator Dandurand's announcement which has been cabled in detail here any statement which would place any of His Majesty's Governments in an invidious position. A statement of the Canadian position became necessary when the Prime Minister of Great Britain announced that Great Britain intended to sign, that each of His Majesty's other Governments proposed to take the like action, and that they would make their own statements. Senator Dandurand in announcing Canada's intention to sign made it clear that this was no new policy. He referred to the telegram of the Canadian Government to the Secretary General of March 10, 1925, which stated that Canada was prepared to consider acceptance of jurisdiction of Permanent Court in justiciable disputes and to my statement in House of Commons last February in reply to a question that in accordance with Imperial Conference Resolution of 1926 recommending that no part of the Empire should formally accept the Optional Clause without giving other parts an opportunity of discussion Canada was advising the other Governments of the Empire of its view that Canada should sign the

Optional Clause and that communications were being exchanged on that subject. You will note therefore that Canadian representative in Assembly following strictly the precedent set in the announcement in the Canadian Parliament last session made no reference whatever to attitude of other Governments but simply made the very natural and in fact necessary point that the present Canadian action was consistent with the attitude taken since 1925. I trust this fuller statement will remove any apprehension that may have been created by abbreviated press reports.

536.

*Le secrétaire d'État aux Affaires extérieures au Conseiller*  
*Secretary of State for External Affairs to Advisory Officer*

TELEGRAM 47

Ottawa, September 10, 1929

Please advise what reservations if any included by Italy, France and any other countries signing Optional Clause.

537.

*Le Conseiller au secrétaire d'État aux Affaires extérieures*  
*Advisory Officer to Secretary of State for External Affairs*

TELEGRAM 77

Geneva, September 11, 1929

Your telegram No. 47. Ten States have announced in Assembly of the League of Nations intention of signing the Optional Clause. Italy and Latvia have already signed. Acceptance by Italy is for five years, subject to reciprocity and subject to any other methods of settlement provided by a special Convention, and in any case where a solution through diplomatic channels, or further, by the action of the Council of the League of Nations could not be reached. Latvia accepts jurisdiction of the Court for five years, subject to reciprocity with respect to situation subsequent to ratification except in cases where the parties have agreed or shall agree to another method of pacific settlement. France is to renew her adhesion but no indication is given of reservation if any. Have written and shall inform you of additional signatures and reservations as they occur.

Negotiations between us may be abortive. Presently South Africa and Irish Free State incline to agreement eliminating Permanent Court pending the holding of the next Imperial Conference. If no agreement concluded at Imperial Conference would agree to exhaust all means of amicable settlement before having recourse to the Permanent Court. This unacceptable to London, Australia and New Zealand. Furthermore Irish Free State insists on registering any agreement under Article 18 of the Covenant. Hurst objects to registration which would reverse Great Britain's official answer to Irish Treaty registration in 1924.

If agreement reached, London reservation would be made agreeable to Irish Free State, if not, London may expressly reserve disputes *inter se*. If London insists on reservation eight would suggest adding after word suspended "during a term not exceeding one year unless further extended by consent of parties or by unanimous vote of the Countries."

538.

*Le Conseiller au secrétaire d'État aux Affaires extérieures*  
*Advisory Officer to Secretary of State for External Affairs*

TELEGRAM 78

Geneva, September 13, 1929

Sub-Committee met yesterday, Thursday. Refusal of Irish Free State to abandon course forces separate reservation. Great Britain will follow standard formula. And will (?) its reservation. This is agreeable to Australia and New Zealand, South Africa doubtful. Elliott, Euler and I inclined to prefer the specific exception (see (b) which follows in latter part of this despatch) to objectionable word "international", which Hurst declared to Committee of Jurists 16th March, 1929, see pages 69 and 70 of French report C.166.M.66.1929, did not cover relations between the Members of the Commonwealth. Hurst admitted to Delegates that word "international" was intended to exclude Members of the Commonwealth from appeals to the Court in disputes between themselves, and that dropping of word "Members" in clause 3 and leaving word "State" only, was for the same purpose. In view of that public statement perhaps it is better to face situation squarely and to adhere to Court through standard formula completed by our reservation. Perhaps worth considering signing with same reservation as Great Britain in order to avoid opposition criticism as to apparently aligning ourselves against Great Britain. By implication our reservation affirms our right to go to Court and furthermore if we abstain we risk implication that London is imposing its will and policy on us.

(b) That this acceptance of jurisdiction of the Court does not extend to disputes with any other Members of the British Commonwealth of Nations.

With a view to conciliating South Africa and the Irish Free State, Hurst asked me if last reservation of (b) would in our view be an improvement if we prefaced it as follows:

That as several Members of the British Commonwealth of Nations, though international units as individuals, are united by their common allegiance to the Crown, this acceptance etc. etc.

We are not favourably inclined to this modification because explanation would appear to be necessary, and principle might hamper us in the future. If possible send views in time for Sub-Committee meeting Monday morning. I have not yet received official authority to sign. Message ends. Dandurand.



539.

*Le secrétaire d'État aux Affaires extérieures au Conseiller*  
*Secretary of State for External Affairs to Advisory Officer*

TELEGRAM 49

Ottawa, September 14, 1929

IMMEDIATE. Following for Dandurand. Begins. Your telegram No. 78 received.

1. Cannot decypher word at beginning following words "will follow standard formula and will". Sentence at end of first part from "against Great Britain" and ending "imposing its will and policy on us" also not clear.

2. Tentative British draft appears to propose more reservations than proposed by any other signatory. Previous discussion indicated reservation regarding domestic jurisdiction not necessary but we would be prepared to include it. As to Proviso A limitation to twelve months is improvement but we consider it would be desirable and in conformity with ground on which reservation has been proposed to add after words "in respect of any dispute" the following "arising out of action taken in conformity with the Covenant of the League of Nations". As to Proviso B preface suggested by Hurst would not be desirable. As already stated it is not the wish of the Canadian Government to utilize the court for legal disputes with other members of the British Commonwealth but it is extremely doubtful whether a formal reservation would be consistent with Article 36. We note that in minutes of Downing Street meeting on Optional Clause August 27th Lord Passfield stated there were grave legal objections to including as a reservation to the Optional Clause specific mention of the fact that inter-Imperial disputes would not be submitted to League. We believe substantially same purpose can be obtained by statement of Canadian representative when signing that in accordance with provision in declaration excepting from jurisdiction those disputes in regard to which parties have agreed or shall agree to have recourse to some other method of pacific settlement His Majesty's Government in Canada contemplates having recourse to such other methods in connection with any legal question arising with any other signatory which is a member of the British Commonwealth of Nations. A less desirable course would be to include statement to this effect as Proviso B in formal declaration. We agree with your objections to use of word "international" and dropping of word "members" in Clause Three.

Please report results of discussions and position of several delegations immediately so that question of authorization of signature can be taken up at Council meeting Tuesday. Ends.



540.

*Le Conseiller au secrétaire d'État aux Affaires extérieures*  
*Advisory Officer to Secretary of State for External Affairs*

TELEGRAM 82

Geneva, September 16, 1929

Great Britain, Australia and New Zealand desire reservation to read as follows:

Disputes with Governments of any other member of the League which is a member of the British Commonwealth of Nations, all of which disputes shall be settled in such a manner as parties have agreed or shall agree.

Great Britain feels that without an express reservation it may be cited by Irish Free State to the Court. After weighing political and legal aspects, cable final decision with form of declaration. If without above reservation then send public statement to be made concurrently. As our official declaration is simply filed at Secretariat, no verbal statement is in order. A written supplementary statement filed at the same time would practically amount to a reservation although not a positive reservation but mere expression of intention on our part not to use the Court which would morally bind us but would not prevent others from citing us. Possibly a solution might be for Prime Minister to give out statement after we have signed without that reservation. The reservation touching matters of domestic jurisdiction is asked by Australia and probably better for us to do likewise. As regards suspensive clause Hurst objected to our amendment because matter arising out of treaties may have political aspect and conciliation through Council should be first attempted.

South African Government not yet finally heard from. It has expressed preference for a side Agreement instead of official reservation but Irish move precludes side Agreement. Message ends.

541.

*Le secrétaire d'État aux Affaires extérieures au Conseiller*  
*Secretary of State for External Affairs to Advisory Officer*

TELEGRAM 51

Ottawa, September 19, 1929

IMMEDIATE. Your telegram No. 82 of September 16th. Following for Dandurand. Begins. You are authorized to accept jurisdiction of Permanent Court under Article 36 with the following declaration:

On behalf of His Majesty's Government in Canada and subject to ratification, I accept as compulsory *ipso facto* and without special agreement on condition of reciprocity the jurisdiction of the Court in conformity with Article 36 paragraph 2 of the Statute of the Permanent Court of International Justice for the period of fifteen years and thereafter until such time as notice may be given terminating

acceptance, in all disputes arising after ratification of the present declaration with regard to situations or facts subsequent to the said ratification other than (a) disputes in regard to which the parties have agreed or shall agree to have recourse to some other method of peaceful settlement (b) disputes with the Government of any other member of the League which is a member of the British Commonwealth of Nations and (c) disputes with regard to questions which by international law fall exclusively within the jurisdiction of the State concerned and subject to the proviso that His Majesty's Government in Canada reserve the right on giving immediate notice to the registrar of the Court to require that any proceedings in the Court which have been initiated by the other party shall be suspended in respect of any dispute which has before the date of such notice been submitted to and is under consideration by the Council of the League of Nations, but such suspension shall be limited to period of twelve months or such longer period as may be agreed by the parties or determined by a decision of all the members of the Council other than the parties to the dispute.

As regards inter-Commonwealth disputes we have not been informed of the grounds on which it is maintained that a formal reservation would be consistent with Article 36. It would meet all real needs of situation to add the following statement to your declaration:

I am instructed to record that in accordance with the provision in the above declaration excepting from the jurisdiction of the Court disputes in regard to which the parties have agreed or shall agree to have recourse to some other method of peaceful settlement, His Majesty's Government in Canada will have recourse to such other methods in connection with such disputes with any other signatory which is a member of the British Commonwealth of Nations.

You are authorized to add the above statement if agreement on this basis can be effected with the other delegations including South Africa. If such agreement cannot be effected you are authorized to include in your declaration as an additional reservation the following. "All such disputes to be settled in such a manner as the parties have agreed or shall agree." Ends.

542.

*Le Conseiller au secrétaire d'État aux Affaires extérieures*

*Advisory Officer to Secretary of State for External Affairs*

TELEGRAM 86

Geneva, September 20, 1929

Canada and Australia signed Optional Clause this afternoon Friday in (terms?) used by Great Britain, India, New Zealand and South Africa. Henderson in speech yesterday commenting on each clause spoke as follows on inter-Commonwealth matters,

Disputes between other members of the British Commonwealth of Nations are excluded because members of the Commonwealth though international units individually in full sense of the term are united by their common allegiance to the Crown. Disputes between them should therefore be dealt with by some other mode of settlement and for this provision is made in exclusion clause.

His remarks were not submitted to us. This comment had been suggested by Hurst for inclusion in reservation but was not favoured by us nor by you. I felt necessity to make our own commentary taken from your despatch in the following terms,

The Dominion of Canada has excluded from purview of Court legal disputes with other members of the British Commonwealth for the sole reason that it is its expressed policy of settling these matters by some other method, and it has deemed opportune to include its will as a reservation, although a doubt may exist as to such reservation being consistent with Article 36 Statute of the Court.

South Africa yesterday Thursday after signature spoke as follows,

With regard to reservation as to disputes between members of the British Commonwealth of Nations, I wish to state that although in the view of my Government such disputes are justiciable by International Court, my government prefer to settle them by other means—hence reservation.

Message ends. Dandurand.

543.

*Le sénateur Dandurand au sous-secrétaire d'État aux Affaires extérieures*  
*Senator Dandurand to Under-Secretary of State for External Affairs*

Montréal, 15 mars 1930

Mon cher ami,

J'ai reçu cette semaine «The Report of the Canadian Delegation to the 10th Assembly» dont le manuscrit ne m'avait pas été envoyé.

Vous dites à la page 5 that «Canada and South Africa indicated that while in their opinion legal disputes between Members of the British Commonwealth might properly go before the Court, as a matter of policy they preferred to have them dealt with by other means.»

Cette déclaration va plus loin que je ne suis allé dans le commentaire que j'ai fait lors de la signature que j'ai donnée. J'ai voulu alors simplement dissocier le Canada de l'affirmation de principe faite par Monsieur Henderson, de manière à réserver l'avenir et à laisser le règlement définitif de cette question à la Conférence impériale.

Cordialement à vous,

R. DANDURAND

544.

*Le sous-secrétaire d'État aux Affaires extérieures au sénateur Dandurand*  
*Under-Secretary of State for External Affairs to Senator Dandurand*

Ottawa, March 18, 1930

My dear Senator,

I am very sorry that you did not receive a copy of the revised Report of the Tenth Assembly before it was sent to the printer. You will recall that in

sending you on the 30th December the draft report prepared by Dr. Riddell and his staff, I intimated that the first part of it would be redrafted to give a clearer and more concise summary of the more important matters that came before the Assembly. We asked you to return this with any suggestions if possible before sailing, but I understand you had not time to do so. In view of the rapidly approaching Session and your absence in Geneva, I hoped that this final revision would pass scrutiny and, in this hope, had it printed in time for presentation to Parliament.

I note your observation that the passage, which you quote from page 5 of the Report concerning your commentary on the declaration of signature of the Optional Clause, goes farther than your words on that occasion warrant.

May I quote from your statement as given in your telegram of the 20th September, 1929,

The Dominion of Canada has excluded from purview of Court legal disputes with other members of the British Commonwealth for the sole reason that it is its expressed policy of settling these matters by some other method, and it has deemed opportune to include its will as a reservation, although a doubt may exist as to such reservation being consistent with Article 36 Statute of the Court.

and compare it with the passage under reference in the Report,

Canada and South Africa indicated that, while in their opinion legal disputes between Members of the British Commonwealth might properly go before the Court, as a matter of policy they preferred to have them dealt with by other means.

The latter passage seems to give in brief form the substance of the first part of your statement. If Canada excluded inter-Commonwealth disputes for the *sole* reason that it considered this policy advisable, it follows that it considered that there was nothing inherent in the relations between the Members of the Commonwealth and their position in the League which would make such exclusion constitutionally imperative.

There remains the question as to your qualifying phrase, "although a doubt may exist as to such reservation being consistent with Article 36 of the Statute of the Court". We did not consider it necessary to quote this specifically, as we were not quite clear as to your meaning e.g. whether Canada was making a reservation but at the same time expressed doubt as to its legality. I do not think that there is anything in the passage quoted from the Report which is inconsistent with your statement, but I should like to have your views further on this point. If there was any doubt as to the legality of our reservation, we were implicitly acknowledging the formal propriety of the Court's jurisdiction in justiciable disputes between Members of the Commonwealth, in other words, as indicated that such disputes could "properly go before the Court".

I am sorry that circumstances prevented us from clearing up this point before the Report was printed. I hope, in view of the foregoing explanation, that you do not feel that our summary of your statement is in any way misleading, but I shall of course be very glad to go into the question further. I am sending you under separate cover the reports of the discussion in the



British and Irish Free State's parliaments; please return as they are our only copies. I am also sending copy of the "White Paper" issued by the British Government in December.

Yours sincerely,

O. D. SKELTON

545.

*Mémorandum du sous-secrétaire d'État aux Affaires extérieures  
au Premier ministre*

*Memorandum from Under-Secretary of State for External Affairs  
to Prime Minister*

Ottawa, April 19, 1930

NOMINATION OF JAPANESE JUDGE TO PERMANENT COURT

I understand Mr. Tokugawa has spoken to you of the desire of the Japanese Government for support of the candidacy of Baron Adatci for one of the seats in the Permanent Court. Baron Adatci himself had communicated with Senator Dandurand. As there always has been one Japanese on the Permanent Court and it is obvious that one of the fifteen judges should be Japanese if the rule as to representation of the different legal and cultural systems of the world is to be followed, I told Mr. Tokugawa that I had no doubt that the Government would be prepared to support Baron Adatci's candidacy at the election next Assembly.

Mr. Tokugawa went further, however, and asked that we request the Canadian national group to nominate Baron Adatci. I told Mr. Tokugawa that our group had not yet been appointed, and that in any case it acted independently and not under instructions from the Government.

O.D.S.

546.

*Le Premier ministre au sous-secrétaire d'État aux Affaires extérieures<sup>1</sup>  
Prime Minister to Under-Secretary of State for External Affairs<sup>1</sup>*

[Ottawa,] April 29, 1930

You may advise Mr. Tokugawa we should be glad to support Baron Adatci's candidature. As the political uncertainties of the present year render doubtful who may represent Canada at Geneva, I do not think we should undertake to place Baron Adatci's name in nomination. Were the circumstances other than what they are I should not hesitate to recommend that this be done.

W.L.M.K.

<sup>1</sup> Cette observation figurait en marge du document précédent.

<sup>1</sup> This note was made as a marginal comment on the preceding document.



547.

*Décret du Conseil**Order in Council*

P.C. 1201

May 31, 1930

The Committee of the Privy Council have had before them a Report, dated 15th May, 1930, from the Secretary of State for External Affairs, representing as follows:

The Protocol for the Revision of the Statute of the Permanent Court of International Justice was signed on behalf of Canada by the Honourable Raoul Dandurand, on the 14th September, 1929;

This Protocol was recently approved by the Senate and House of Commons of Canada;

It is advisable that this Protocol be ratified by His Majesty the King in respect of Canada.

The Committee, therefore, on the recommendation of the Secretary of State for External Affairs, advise that His Majesty may be humbly moved to ratify the said Protocol in respect of Canada.

548.

*Décret du Conseil**Order in Council*

P.C. 1202

May 31, 1930

The Committee of the Privy Council have had before them a Report, dated 15th May, 1930, from the Secretary of State for External Affairs, representing as follows:

The Protocol relating to the Accession of the United States to the Protocol of Signature of the Statute of the Permanent Court of International Justice was signed on behalf of Canada by the Honourable Raoul Dandurand, on the 14th September, 1929;

This Protocol was recently approved by the Senate and House of Commons of Canada;

It is advisable that this Protocol be ratified by His Majesty the King in respect of Canada.

The Committee, therefore, on the recommendation of the Secretary of State for External Affairs, advise that His Majesty may be humbly moved to ratify the said Protocol in respect of Canada.

## PARTIE 3 / PART 3

ORGANISATION INTERNATIONALE DU TRAVAIL  
INTERNATIONAL LABOUR ORGANIZATION

549.

*Décret du Conseil**Order in Council*

P.C. 357

March 11, 1926

Whereas at the Second Session of the General Conference of the International Labour Organization of the League of Nations held at Genoa on July 9, 1920, two draft conventions were adopted (a) fixing the minimum age for admission of children to employment at sea; (b) concerning unemployment indemnity in case of loss or foundering of a ship;

And whereas at the Third Session of the said Conference two other draft conventions were adopted, at the meeting held, at Geneva, on November 11, 1921, (a) fixing the minimum age for the admission of young persons to employment as trimmers or stokers; (b) concerning the compulsory medical examination of children and young persons employed at sea. At these Conferences Canada has been duly represented;

And whereas these four draft conventions have been incorporated in an Act to amend the Canada Shipping Act which was assented to July 19, 1924, and published as 14-15 George V. chap. 12;

And whereas by a Minute of Council approved on October 8, 1925 (P.C. 1828) authority was granted for the issue of a Proclamation to bring the above Act into effect on January 1, 1926, for the adhesion of Canada to the four draft conventions enumerated above, and for taking the necessary steps for their ratification;

Therefore His Excellency the Governor General in Council, on the recommendation of the Secretary of State for External Affairs and with the concurrence of the Acting Minister of Labour, is pleased to confirm and doth hereby confirm and approve the above four draft conventions on behalf of Canada; formal communication of such ratification to be made to the Secretary General of the League of Nations and to the Secretary of State for Dominion Affairs.

550.

*Le sous-secrétaire d'État aux Affaires extérieures au secrétaire général,  
Société des Nations*

*Under-Secretary of State for External Affairs to Secretary General,  
League of Nations*

Ottawa, November 3, 1927

Sir,

With reference to the draft conventions and recommendations which were adopted by the International Labour Conference, in 1925, I have the honour to inform you that these draft conventions and recommendations have been brought before the competent authorities for the enactment of legislation or other action.

The Minister of Labour presented to the House the text of an Order-in-Council on March 9th, 1927, (P.C. 413), which was adopted on a report of the Minister of Justice dealing with the extent to which the subject matters fall within the competence of the Dominion Parliament or of the provincial legislatures. Copy of this Order-in-Council is hereby enclosed.

I have etc.

O. D. SKELTON

[PIÈCE JOINTE/ENCLOSURE]

*Décret du Conseil*<sup>1</sup>

*Order in Council*<sup>1</sup>

P.C. 413

March 9, 1927

The Committee of the Privy Council have had before them a report, dated 1st March, 1927, from the Minister of Justice, submitting that he has had under consideration, upon reference from the Honourable the Minister of Labour, the authentic texts of the draft conventions and recommendations adopted by the International Labour Conference at its seventh session (19th May-10th June, 1925) with a view to determining whether and to what extent the subject matter of these several draft conventions and recommendations lies within the competence of Parliament or of the provincial legislatures, in order that the said draft conventions and recommendations may be brought by the Dominion Government (in discharge of its obligation under Article 405 of the Treaty of Peace with Germany and the corresponding article of the other treaties of peace) before the authority or authorities within whose competence the matter in each case lies for the enactment of legislation or other action.

<sup>1</sup> De semblables Décrets du Conseil furent adoptés chaque année après la Conférence de l'O.I.T.

<sup>1</sup> Similar Orders in Council were passed each year following the I.L.O. Conference.

The different subjects dealt with by the several draft conventions and recommendations above mentioned are indicated by their respective captions, as follows:

I Draft Convention concerning Workmen's Compensation for Accidents.

II Recommendation concerning the minimum scale of Workmen's Compensation.

III Recommendation concerning jurisdiction in Disputes on Workmen's Compensation.

IV Draft Convention concerning Workmen's Compensation for Occupational Diseases.

V Recommendation concerning Workmen's Compensation for Occupational Diseases.

VI Draft Convention concerning equality of treatment for National and Foreign Workers as regards Workmen's Compensation for Accidents.

VII Recommendation concerning equality of treatment for National and Foreign Workers as regards Workmen's Compensation for Accidents.

VIII Draft Convention concerning night work in Bakeries.

1. The Conventions and recommendations numbered I, II, IV and V, seeing that they all relate to the provision of compensation for workmen or their dependents for personal injury or death due to industrial accidents or occupational diseases and matters incidental thereto, may conveniently be dealt with together. These draft conventions and recommendations look to the creation, by compulsory legislation, of certain rights or benefits for workmen and their dependents, as incident to the contracts of employment made with the workmen, in accordance with the various principles and rules set forth therein. Such, in effect, is the nature of the subject-matter of the said conventions and recommendations.

The Minister is of the opinion that, although legislation upon that subject-matter might perhaps be enacted by the Parliament of Canada in an ancillary way in relation to works and undertakings subject to its exclusive legislative authority, legislative jurisdiction touching that subject-matter is primarily vested in the provincial legislatures. The Minister observes that provincial workmen's compensation laws have been held to be within the competence of the legislatures as directly engaging the subject of civil rights in the provinces and incidentally other classes of subjects assigned exclusively to the provincial legislatures by sec. 92 of the British North America Act, 1867. (*Workmen's Compensation Board v. Canadian Pacific Railway Co.* (1920) A.C. 184, 191, 192. *McColl v. Pacific Railway Co.* (1923) A.C. 126, 135. *The Canada Southern Railway Co. v. Jackson*, 17 S.C.R. 316. *Kowhanko v. Tremblay* (1920) 50 D.L.R. 578). These legislatures are, consequently, competent to enact legislation on the subject-matter of these conventions and recommendations generally and comprehensively, subject to these qualifications: that the Parliament of Canada is exclusively competent to enact legislation giving effect to the provisions of the said draft conventions and recommendations with relation to the officers and employees of the Dominion Government and as regards those parts of Canada which are not included within the limits of any province.

Parliament has already enacted a workmen's compensation law applicable to the officers and employees of the Dominion Government and their dependents (Chapter 15 of the Statutes of 1918 and the amendments thereto) and in view of the terms of that statute, the Minister is of the opinion that no additional legislation by Parliament will be required for the purpose of giving effect to the provisions of the said draft conventions and recommendations in relation to such officers and employees.

2. The Recommendation Concerning Jurisdiction in Disputes on Workmen's Compensation contains two articles: by the first, it is recommended that every dispute relating to workmen's compensation should preferably be dealt with by a special court or board of arbitration comprising, with or without the addition of regular judges, an equal number of employers' and workmen's representatives appointed to act as adjudicators, etc., etc.; by the second, it is recommended that where disputes relating to workmen's compensation are dealt with by the ordinary courts of laws, such courts shall be required, on the request of either of the parties concerned, to hear employers' and workmen's representatives as experts in any case where the dispute involves a question of an occupational character, and in particular the question of the degree of incapacity for work.

The Minister is of the opinion that it is within the competence of the provincial legislatures to give general effect to these proposals, subject, however, to these qualifications, viz.

(a) That if a special court be constituted in pursuance of the first article above mentioned with jurisdiction or powers which are such as to make it in essence a Superior Court, then, while the constitution of such a Court is within the competence of the provincial legislatures, the appointment and payment of members or judges of the court engages exclusively the powers of the Dominion under secs. 96 and 100 of the B.N.A. Act, 1867; and

(b) That Parliament alone is the competent authority to give effect to these proposals in relation to the officers, servants and employees of the Dominion Government and as regards such parts of Canada as are not included within the limits of any Province.

In view of the terms of the Dominion Act (Chap. 15 of Statutes of 1918 and amendments thereto), the Minister is further of the opinion that no additional legislation on the part of Parliament is required to give effect to the proposals of this recommendation in relation to disputes as to compensation affecting the Dominion's own officers or employees, within the several provinces.

3. With regard to the Draft Convention and Recommendation Concerning Equality of Treatment for National and Foreign Workers as regards Workmen's Compensation for Accidents, the Minister is of the opinion that it is within the competence of the provincial legislatures to give general effect to the proposals thereof subject, however, to the following qualifications:

(a) That the Parliament of Canada is the competent authority to give effect to the undertaking mentioned in Article 1 of the convention as well as the other proposals of the convention and recommendation for such parts of Canada as are not within the limits of any province;



(b) That, should it become necessary to make any special arrangements with other Members of the International Labour Conference regarding payments outside Canada, in application of the principle mentioned in Article I of the convention, any such arrangement would, of course, have to be made, for and as regards any province, through the Dominion Government.

(c) That the special agreements mentioned in Article 2 of the convention would have to be negotiated and concluded, for and as regards any province of Canada, by the Dominion Government; and

(d) That the Dominion Government is the proper channel of communication, for and as regards any province, with any other Member of the International Labour Conference or with the International Labour Office for any of the purposes mentioned in Article 4 of the convention.

4. The Minister is of the opinion that it is within the exclusive competence of the provincial legislatures to give effect to the Draft Convention concerning Night Work in Bakeries within the provinces but that the Parliament of Canada is alone competent to legislate upon this subject-matter for such parts of Canada as are not included within the limits of any of the provinces.

The Committee concur in the foregoing, and, on the recommendation of the Minister of Justice, advise that a copy hereof, together with authenticated copies of the said draft conventions and recommendations, be transmitted to the Lieutenant-Governors of the respective provinces, for the consideration of their respective governments, with a view to the enactment of legislation or such other action upon the parts of the subject-matter of the several draft conventions and recommendations within the provincial sphere of jurisdiction, as each Government may be advised to take.

All of which is respectfully submitted for Your Excellency's approval.

#### PARTIE 4/PART 4

#### UNION PAN-AMÉRICAINNE

#### PAN-AMERICAN UNION

551.

*Le ministre aux États-Unis au sous-secrétaire d'État  
aux Affaires extérieures*

*Minister in United States to Under-Secretary of State  
for External Affairs*

PERSONAL AND CONFIDENTIAL

Washington, January 9, 1928

My dear Dr. Skelton,

The Ambassador showed me, yesterday, a confidential telegram, received by him from the British Minister to Mexico, to the effect that it was likely that the Mexican Delegation to the forthcoming Pan-American Congress, at Havana, will move that an invitation be sent to Canada to join the Pan-American Union.

I am assuming that no such invitation would meet with the favourable consideration of the Government of Canada, and therefore I shall do nothing more at the moment than transmit this information. Should you, however, desire any information on the Pan-American Union, I shall be glad to send it to you. My own view which has been strengthened ever since I have taken up my duties in Washington, is that the entry of Canada into the Pan-American Union would not be in the interests of the Dominion, would lower her prestige in this country, and, generally, would, almost inevitably, lead to unfortunate consequences.

Let me know if you care to have any further views from me on this subject.

Yours sincerely,

VINCENT MASSEY

552.

*Le sous-secrétaire d'État aux Affaires extérieures  
au ministre aux États-Unis*

*Under-Secretary of State for External Affairs  
to Minister in United States*

PERSONAL AND CONFIDENTIAL

Ottawa, January 13, 1928

My dear Mr. Massey,

I am in receipt of your letter of Jan. 9 intimating that it was probable that the Mexican delegation would propose at the Havana conference that an invitation be sent to Canada to join the Pan-American Union.

I brought the matter to the Prime Minister's attention, and this morning accordingly sent you a telegram in cypher, of which I enclose a paraphrase.

We went pretty fully into the question of joining the Pan-American Union last year. There are many good reasons for joining. Our commercial and financial relations with Latin-America are bound to be very important. There are questions before the Pan-American Union and the Conference which are just as important to us as many which figure on the agenda of the League of Nations or of an Imperial Conference. At the same time, in view of the rivalries between the United States and the Latin-American countries, and of the fact that our entrance into the Union is desired by our Latin-American friends in order that we may serve as a counterpoise to the United States, we are of the opinion that, for the present at least, it would not be desirable to join if invited. I am of course assuming that the technical obstacle to joining, namely, the condition that all members must be republics, could, if the Union so desired, be modified.

At the present moment, in view of the very bitter controversy which is being carried on here over Canadian relations with Mexico,<sup>1</sup> it would be particularly unfortunate if a gesture were made by Mexico on our behalf, and, as might be assumed, with our knowledge and consent.

Many thanks for the copy of the handbook of the conference, which will be very useful.

Yours sincerely,

O. D. SKELTON

[PIÈCE JOINTE/ENCLOSURE]

*Le secrétaire d'État aux Affaires extérieures  
au ministre aux États-Unis*

*Secretary of State for External Affairs  
to Minister in United States*

PARAPHRASE OF TELEGRAM

Ottawa, January 13, 1928

CONFIDENTIAL. Pan-American Union. With reference to your personal letter of January 9th, the policy of the Government is decidedly against joining Union and proposal by Mexico would be doubly embarrassing in view of recent local controversy regarding Mexico. Will you please consult with Ambassador and arrange to convey through British Minister message to Mexican Government or through Mexican Legation in Washington as seems appropriate, with a request that enquiry be made first as to whether rumour is correct that such step is in contemplation and if so to state that Canadian Government, while expressing appreciation of courtesy, would not at present be able to accept an invitation if conveyed and that it would be preferable from all angles that it should not be extended therefore. Also it would be advisable, unless you consider this would increase likelihood of reports reaching press, to inform Cuban Charge d'Affaires for communication to his Government.

553.

*Le ministre aux États-Unis au sous-secrétaire d'État  
aux Affaires extérieures*

*Minister in United States to Under-Secretary of State  
for External Affairs*

SECRET

Washington, January 19, 1928

My dear Dr. Skelton,

With regard to your cipher telegram and personal and confidential letter of January 13th, I saw Ronald Campbell at the Embassy last Monday morning

<sup>1</sup> Voir documents 851-65.

<sup>2</sup> See Documents 851-65.

on my return from New York, (Campbell is acting as Chargé d'Affaires in the absence of the Ambassador) and asked him to wire the British Minister at Mexico City, stating the views of the Canadian Government on the question of the proposed invitation to join the Pan-American Union, and asking him for the source of his information. Ovay [sic] could only communicate our views with safety if the person who communicated the information to him was absolutely trustworthy, and in any event the danger of leakage is very great. Therefore I have thought it wise to request Ovay to tell me, through the Embassy, how he obtained the information before I request him to pass on our point of view in the matter. I should have an answer to this inquiry sometime today. I think it unwise to approach the Cuban Embassy in the matter.

As a matter of fact, there is practically no reference to Canada in any newspaper dispatches from Havana which gives me the impression that we may possibly escape being drawn into the matter.

Yours sincerely,

VINCENT MASSEY

554.

*Le ministre aux États-Unis au sous-secrétaire d'État  
aux Affaires extérieures*

*Minister in United States to Under-Secretary of State  
for External Affairs*

SECRET

Washington, January 23, 1928

Dear Dr. Skelton,

The British Ambassador came over late on Saturday (21st) to give me the following information: He had just received a telegram from the British Minister in Mexico, Mr. Ovay [sic], with regard to the reported intention of the Mexican Government to get Canada to join the Pan-American Union.

The substance of Mr. Ovay's telegram on this subject is as follows:

The information with regard to this reported intention on the part of Mexico was obtained as a result of a request, from the Foreign Office in London, to report on the general intentions of the Mexican Government with regard to the Pan-American Congress. Ovay's informant appears to have been the Political Director at the Ministry of Foreign Affairs. Ovay says that he has been for some time past aware that the Mexican Government entertained the hope that Canada would enter the Union, but he had always refrained from discussing the subject in any way, making it clear that he regarded it as quite outside his province. The official programme for the Havana Conference does not, he says, contain any proposal for a joint invitation and he understands that, though additional matters may be discussed by general agreement, this question could not be considered in the

normal course of events, until the next conference although this would not preclude preliminary canvassing. The acting Minister for Foreign Affairs, however, told Oway in reply to the Ambassador's wire as to the general intentions, that in view of the reported demand of a member of the Canadian Parliament for the recall of the Mexican Consul-General, at Toronto, he proposed to telegraph instructions to the Mexican delegation at Havana, semi-officially, to withhold support from the idea of an invitation to Canada.

Yours sincerely,

VINCENT MASSEY

555.

*Le ministre aux États-Unis au sous-secrétaire d'État  
aux Affaires extérieures*

*Minister in United States to Under-Secretary of State  
for External Affairs*

SECRET

Washington, February 15, 1928

Dear Dr. Skelton,

On the occasion of a conversation with the Secretary of State which I had yesterday on another subject, Mr. Kellogg referred to a newspaper dispatch in which he was quoted as opposing a reported movement, in the Pan-American Congress, at Havana, to invite Canada to join the Pan-American Union. He denied that the report represented his view and went on to say that he would be very glad to see Canada a member of the Union. He thought that there might be some difficulty in our joining because of our membership in the British Empire. On this point I told him that we would be quite free to join the Union if we wished to do so, but that there was no general feeling in Canada in favour of such a step.

Yours sincerely,

VINCENT MASSEY





## CHAPITRE V/ CHAPTER V

### RAPPORTS MULTILATÉRAUX MULTILATERAL ARRANGEMENTS

- |                |                  |
|----------------|------------------|
| 1. Désarmement | 1. Disarmament   |
| 2. Réparations | 2. Reparations   |
| 3. Divers      | 3. Miscellaneous |

#### PARTIE 1/PART 1

#### DÉSARMEMENT

#### DISARMAMENT

556.

*Le Gouverneur général au secrétaire aux Dominions*  
*Governor General to Dominions Secretary*

TELEGRAM

Ottawa, January 8, 1926

CONFIDENTIAL. Following from Prime Minister for your Prime Minister. Begins. The questions raised by the signing of the Treaty of Mutual Guarantee and the other Locarno agreements, and in particular the proposals as to an Imperial Conference contained in your telegrams of November 18 and December 21<sup>1</sup>, have received the careful attention of the Canadian Government.

In examining the Locarno agreements and reviewing the negotiations which led to their adoption, we have been impressed by the evident reasonableness and good will and the frank facing of realities which have marked the attitude of the representatives of all the powers concerned. We have noted with particular pride the unceasing striving for peace and reconciliation in Europe and the skill and patience displayed by British statesmen in recent years. The undertaking of France and Germany to accept their present frontiers and to renounce war in favor of arbitration as a means of settling future disputes, together with the arbitration agreements between Germany and her Eastern neighbours, should ensure a new era of conciliation and co-operation among the powers of Europe. The entrance of Germany into the League will remove one of the great stumbling-blocks to its complete effectiveness.

<sup>1</sup> Voir Volume 3, documents 519 et 521.

<sup>1</sup> See Volume 3, Documents 519 and 521.

The question whether it was advisable or necessary for Great Britain to guarantee the settlement on Germany's western borders or to decline to guarantee a settlement on her eastern borders is naturally one on which there is more room for difference of opinion. The Canadian Government recognizes the force of the considerations which led the British Government to conclude that this question, while inevitably having important consequences for other parts of the Empire, was primarily a matter of concern to Great Britain, with which its Parliament and Government were best qualified to deal. Nor would we desire to take exception to the decision of the British Government, in view of these considerations and of the urgency which was held to exist, to determine its policy without consulting the Dominions in an Imperial Conference or otherwise. The Dominions have been furnished throughout with adequate summaries of all proposals and stages of the negotiations. It is noted also that in accordance with the precedent set in 1919 in the Tripartite Treaty, after consultation with the Dominion Prime Ministers then in Paris, and followed in the proposed Cannes Pact of three years later, Article 9 of the Treaty of Mutual Guarantee provides that no obligations shall be imposed on any of the British Dominions or upon India, unless its Government signifies acceptance — a procedure which of course implies a real freedom of choice.

As regards Canada, the Canadian Government has not been able to conclude that it would be warranted in recommending Parliament to guarantee this European settlement. Considerations similar to those which have led the British Government to decide not to increase its obligations in the case of the eastern boundary of Germany appear to make it inadvisable for Canada to increase its obligations on either boundary. That such an increase of obligations would be involved appears from a study of specific provisions, as well as from the very fact of the negotiation of the treaty and from the provision that it is not to terminate until such time as a two-thirds majority of the Council decides that the ordinary engagements of the League afford adequate security. Such further undertakings would appear to run counter to the policy consistently advocated both by the present Canadian Government and its predecessors in endeavouring to secure a more flexible interpretation of Article 10 of the Covenant. Instead of undertaking in advance to fight either on the side of France against Germany or on the side of Germany against France, as the case may be, in any future Rhine war, it appears advisable to leave the question of participation for determination at the time in the light both of the situation abroad and the situation at home.

The Canadian Government has considered the suggestion that an Imperial Conference should be held for discussion of this question in 1926 or 1927, and that such examination should precede any final judgment by a Dominion Government upon the matter. We agree that this question is such as may very profitably be considered in personal conference when occasion permits. It is not apparent, however, that such a conference is more essential to enable a

Dominion Government to determine its policy after the signature of the treaty than it was for the British Government before signature. The Parliaments of the Dominions will be in possession of all the information as to the treaty and its bearing upon European affairs which was presented to the Parliament of Great Britain, and which was found adequate for reaching a decisive judgment. The Canadian Government of course agrees with the view set forth in your telegram of November 18 that it would undertake no obligations under Article 9 unless the whole position had been laid before Parliament and approval of Parliament obtained. Particularly in view of fact that it may not be possible to arrange a date for a conference convenient for all the Governments concerned earlier than in 1927, it would not seem practicable or consistent with the responsibility of the Governments and Parliaments of the Dominions, when the question is raised in Parliament, as it will inevitably be, to postpone discussion or expression of opinion until after the Conference. While considering that it will probably be necessary, therefore, to provide for a discussion in Parliament, the Canadian Government is quite prepared to maintain an open mind upon the question, so that in case any change in the present position or any considerations brought forward in the discussion at the Imperial Conference give ground for taking another view than that indicated above, corresponding action could then be recommended.

As to the date of the next Imperial Conference, it is evident that the present parliamentary position in Canada makes it impossible to undertake to send representatives to a conference in June of this year, and very uncertain whether they could be sent in October. So far as Canada is concerned, early in October, 1927, would at present appear the most convenient time, pending announcement by all the other Governments concerned of the dates they would prefer. Mackenzie King. Ends.

557.

*Le secrétaire aux Dominions au Gouverneur général*  
*Dominions Secretary to Governor General*

TELEGRAM

London, January 8, 1926

CONFIDENTIAL. My telegram of January 7th. Confidential, Disarmament, Following from Prime Minister for your Prime Minister. Begins. Lord Cecil, on behalf of the Interdepartmental Committee, has stated that they would greatly value the co-operation of Dominion representatives. Now that the Committee is commencing practical study of the questions involved, this would appear clearly of advantage, and I hope you may now see your way to nominate a representative to be associated with the work of the Committee. Committee held preliminary meeting January 6th but has adjourned for two or three weeks, by which time it is hoped the Service Department will be able to present reports on certain technical aspects of the problem. Ends.

558.

*Le Gouverneur général au secrétaire aux Dominions*  
*Governor General to Dominions Secretary*

TELEGRAM

Ottawa, January 28, 1926

CONFIDENTIAL. Requests have been made in Parliament for publication of the correspondence exchanged between the British and Canadian Governments on the subject of the Treaty of Locarno, the negotiations which preceded it, and subsequent developments. The Canadian Government is prepared to accede, so far as it is concerned, and would desire to be informed of the views of the British Government upon the publication of its despatches. It is presumed the correspondence asked for would cover despatches from initiation of pact in February last down to and including proposals for Imperial Conference.

559.

*Le Gouverneur général au secrétaire aux Dominions*  
*Governor General to Dominions Secretary*

TELEGRAM

Ottawa, January 29, 1926

CONFIDENTIAL. Following from Prime Minister for your Prime Minister. Begins. Your telegram January 8th, Disarmament. We have been considering the Disarmament resolution adopted by the Sixth Assembly and the decision of the Council reported in your recent telegrams as to the agenda of the Preparatory Commission. As the proposals appear to involve to some extent the same questions as the Protocol of Geneva, out of which the resolution arose, we have instructed the Inter-departmental Committee which was appointed to examine the Protocol to examine and report upon the present matter, and shall communicate to you later any observations resulting. We shall endeavour to arrange also to nominate a representative in London to keep in touch with the British Committee and secure benefit of its inquiries. Hope to be able to suggest name very shortly. Ends.

560.

*Le secrétaire aux Dominions au Gouverneur général*  
*Dominions Secretary to Governor General*

TELEGRAM

London, February 4, 1926

CONFIDENTIAL. Following from Prime Minister for your Prime Minister. Begins. PERSONAL. I am today sending you a separate message suggesting that an announcement should be made that it is intended to hold an Imperial Conference in October of this year. I very much hope that you will be ready



to acquiesce in the course proposed. It seems clear that postponement of a meeting of the Conference to 1927 would prove at least as inconvenient to other Governments, who are members of the Conference, as a decision to hold it in 1926 may be to Canada, and we feel, quite apart from the desirability of an early discussion of the principles underlying the Locarno Pact, it would be inadvisable that a general review of the present international situation should be delayed beyond this year.

As regards the Pact itself, we note the present attitude of the Canadian Government, which we understand to be that, if debate is initiated in the Canadian Parliament, present intention of the Canadian Government is to announce that it is (?) not disposed to recommend the acceptance of any of the obligations under Article IX at this stage, while reserving an open mind in case of alteration of views as a result of change in the present position or discussion at an Imperial Conference. We recognize, of course, that you and your colleagues alone can decide how any Parliamentary discussion on this subject should be conducted but we confess we should prefer, if it were found practicable to the Canadian Government, to postpone the formulation of their attitude pending discussion at the Imperial Conference. We had hoped and still hope that as a result of such discussion it would be possible to announce at any rate general approval of the principles to which the Pact gives expression on the part of all Governments represented, even if individual Governments decided to reserve liberty of action with regard to the question of participation. In this connection you may like to know that the press reports received here show that General Hertzog announced in the Union House of Assembly last week in expectation apparently that the Imperial Conference would be held this year, that he thought it would be inadvisable for the Union Government to make any declaration as to its attitude in regard to the Locarno Treaty pending discussion at the Imperial Conference. Baldwin. Ends.

561.

*Le secrétaire aux Dominions au Gouverneur général*

*Dominions Secretary to Governor General*

TELEGRAM

London, February 23, 1926

CONFIDENTIAL. Your telegram of January 28. Following for your Prime Minister. Begins. I have now had an opportunity of consulting the Prime Minister and the Secretary of State for Foreign Affairs as to the suggestion that the correspondence between the British and Canadian Government upon the negotiations leading up to the Treaty of Locarno should be published. They wish me to point out that the telegrams in question represent a consistent endeavour to keep Dominion Governments informed of every phase of the negotiations, and in many cases contain highly confidential information as to the conversations with Ministers and diplomatic representatives of foreign countries. The publication of correspondence of this character would be

equally prejudicial to the confidential relations between ourselves and foreign governments with whom we have been dealing and to the principle of frank and confidential interchange of views of the different Governments of the Empire (see statement enclosed in Duke of Devonshire's despatch of December 21, 1923, Dominions 477, Confidential). For these reasons His Majesty's Government would regard it as impossible to accede to the publication of such correspondence, and we hope that the Canadian Government will not press the suggestion for any further publication. We understand that the papers published here in June (see my despatch of June 24, Dominions 264) have already been republished in Canada (see Governor-General's telegram of June 22). I am repeating your telegram of January 28 and this reply to other Dominions. Ends.

562.

*Le Gouverneur général au secrétaire aux Dominions*  
*Governor General to Dominions Secretary*

TELEGRAM

Ottawa, March 11, 1926

CONFIDENTIAL. Following from Prime Minister for your Prime Minister. Begins. Your telegram Feb. 23 and telegram of Secretary of State for Dominion Affairs of Feb. 23 on publication of Locarno correspondence have been received. We are informed that further questions will be asked when House opens Monday March 15. I propose to reply substantially as follows:

Following the request of Parliament for publication of correspondence exchanged between the British and Canadian Governments on the subject of Treaty of Locarno including the preceding negotiations, the adoption of the Treaty, and any exchange of views upon the adhesion of the Dominions, we advised the British Government that the Canadian Government was prepared to accede so far as any communications on its part were concerned and asked to be informed of the views of His Majesty's Government as to the publication of its despatches. We are informed by the British Government that they do not see their way to consent to the publication of their despatches, which were of detailed character, covering many phases of the negotiations, and in many cases containing confidential information as to the views of foreign governments. The British Government considers that the publication of this correspondence would be prejudicial to free interchange of opinion, whether with foreign governments or between the different governments of the Empire. Without prejudice to the general question of the advisability of making public such exchanges of opinion, we are prepared to agree that in this instance the objection of the British Government to the publication of despatches revealing conversations with foreign governments is well taken. The British Government has agreed to the publication of that part of the correspondence which relates to the proposal to hold an Imperial Conference.

We would therefore propose to lay on the table on Monday the messages on the latter subject listed in your telegram of Feb. 23. Please advise whether you have any comments to make upon the proposed procedure. Ends.

563.

*Le secrétaire aux Dominions au Gouverneur général*  
*Dominions Secretary to Governor General*

TELEGRAM

London, March 13, 1926

PRIORITY. CONFIDENTIAL. Following from Prime Minister for your Prime Minister. Begins. Your message of March 11th, publication of correspondence relating to the Treaty of Locarno and Imperial Conference. Proposed procedure is quite agreeable to us. I am informing other Prime Ministers as to publication of correspondence regarding Imperial Conference. Ends.

564.

*Le secrétaire aux Dominions au Gouverneur général*  
*Dominions Secretary to Governor General*

DESPATCH 12

Downing Street, March 19, 1926

My Lord,

With reference to my despatch Dominions Treaty No. 4 of the 8th of January, I have the honour to transmit to Your Excellency, to be laid before your Ministers, a copy of a despatch<sup>1</sup> to His Majesty's Representatives at Washington, Brussels, Paris, Rome, Madrid, Tokyo, Stockholm, The Hague, Prague, Vienna and Berlin regarding the ratification of the Arms Traffic Convention signed at Geneva on the 17th of June last.

2. I should be glad to learn whether, in the event of ratification of the Convention by His Majesty the King on behalf of this country, your Ministers would desire that the Convention should at the same time be ratified on behalf of Canada.

I have etc.

L. S. AMERY

565.

*Le secrétaire aux Dominions au Gouverneur général*  
*Dominions Secretary to Governor General*

TELEGRAM

London, May 15, 1926

SECRET. My telegram of January 7th. Disarmament. Inter-departmental Committee has now submitted report containing recommendations as to the

<sup>1</sup> Non reproduite.<sup>2</sup> Not printed.

attitude to be adopted by Lord Cecil at the meeting of the Preparatory Commission to be held at Geneva May 18th. Report has been approved, with slight alterations, by the Committee of Imperial Defence and the Cabinet, and copies are being sent by mail. Following is summary of the instructions to Lord Cecil, which are based on the report.

Instructions begin by saying that the preliminary question which naturally arises is whether in the endeavour to fix the ratio of armaments those maintained by each of the Dominions would be considered separately from those of Great Britain and other Dominions, or whether, as in the case of the Washington Conference, the armaments of all the Dominions and Great Britain would be considered collectively. Question, though of great importance, does not seem likely to be raised directly during the early deliberations of the Preparatory Commission but is rather a matter which would come up later, perhaps not until the Disarmament Conference assembles. In any case, it would be very undesirable that any discussion of this question should take place until the Dominion Governments have had an opportunity of considering it. Lord Cecil would therefore endeavour to prevent any discussion of it at the forthcoming meeting . . .

Please inform your Prime Minister.

566.

*Le secrétaire aux Dominions au Gouverneur général*  
*Dominions Secretary to Governor General*

TELEGRAM

London, February 15, 1927

Official memorandum from the United States Government was received by His Majesty's Government in Great Britain on February 10th proposing negotiations between the parties to the Washington Treaty of 1922 for a Convention for a further limitation of naval armaments. Text of memorandum has been published and copy being sent by mail.

Specific enquiry is whether the Governments signatory of the Washington Treaty are disposed to empower their representatives, at the forthcoming meeting of the Preparatory Commission for the Geneva Disarmament Conference, to initiate negotiations looking towards an agreement providing for limitation in the classes of naval vessels not covered by the Washington Treaty. Memorandum states that, while hesitating to make rigid proposals at present as to the ratios of naval strength, United States Government are, for their part, disposed to accept, as regards those classes of vessels not covered by the Washington Treaty, an extension of 5-5-3 ratio as regards the United States, Great Britain and Japan, and to leave to discussion at Geneva the ratios of France and Italy taking into full account their special conditions and requirements in regard to the type of vessels in question. Ratios for capital ships and aircraft carriers will not be(?) affected in any way by an agreement covering other classes of ships.

Memorandum intimates that at the forthcoming meeting at Geneva, United States representatives, in addition to participating fully in the discussion for the preparation of the Agenda for the general Conference, will have full powers to negotiate definitely regarding measures for further naval limitations, and if they are unable [*sic*] to reach an agreement with the representatives of other signatories of the Washington Treaty, to conclude a Convention embodying such agreement in a tentative or final form as may be found practicable.

Memorandum now under consideration here and further communication will be sent.

567.

*Le secrétaire aux Dominions au Gouverneur général*  
*Dominions Secretary to Governor General*

TELEGRAM

London, February 17, 1927

SECRET. Naval disarmament. Following are terms of proposed reply. Begins. H. M. Government in Great Britain received with cordial sympathy invitation of the Government of the United States to take part in discussion at Geneva on the further limitation of naval armaments.

Views of His Majesty's Government upon the special geographical position of the British Empire, length of inter-Imperial communications and necessity for protection of its food supply are well known, and together with the special conditions and requirements of other countries invited to participate in the discussion must be taken into account. H. M. Government are nevertheless prepared to consider to what extent the principle adopted at Washington can be carried further, either as regards the ratio in different classes of ships between the various Powers or in other important ways. They therefore accept the invitation of the United States Government and will do their best to further the success of the proposed discussion. They would, however, observe that the relationship of such discussion to the proceedings of the Preparatory Commission at Geneva would require careful adjustment. Ends.

568.

*Le secrétaire aux Dominions au Gouverneur général*  
*Dominions Secretary to Governor General*

TELEGRAM

London, February 18, 1927

IMMEDIATE. SECRET. My telegram of February 17th. Naval disarmament. Please substitute "conversation" for "discussion" wherever the expression occurs.



569.

*Le secrétaire aux Dominions au Gouverneur général*  
*Dominions Secretary to Governor General*

TELEGRAM

London, February 18, 1927

SECRET. Naval Disarmament. As your Ministers know, Viscount Cecil is the representative of H. M. Government in Great Britain on the Preparatory Commission for the Disarmament Conference, and we think that it might be convenient if he were to conduct the preliminary conversations proposed by the President of the United States, if it takes place. Should, however, the question of a formal Conference arise, most convenient course would then seem to be to form a single (?) British Delegation of the Governments participating, as contemplated under (ii) on page 25 of Command 2768 (Section 5B. of Report of the Inter-Imperial Relations Committee of the Imperial Conference).

570.

*Le Gouverneur général au secrétaire aux Dominions*  
*Governor General to Dominions Secretary*

TELEGRAM

Ottawa, February 21, 1927

SECRET. Begins. Naval Disarmament. Your telegrams of 17th and 18th February received. His Majesty's Canadian Government has noted with deep interest proposal of the Government of the United States to initiate conversations in Geneva with the principal naval powers with the purpose of securing further limitation of naval armaments. As a member and supporter of the League of Nations, Canada has looked forward to the possibility of progress in the whole field of limitation of armament being brought about through the general Conference for which the League has been making careful preparations. If, however, there is a possibility of more immediate and effective limitation being secured by preliminary conference of the Governments controlling the larger navies, Canadian opinion would be in cordial sympathy with such a proposal.

It is understood that the invitation from the United States Government is directed to His Majesty's Government in Great Britain, and it would therefore seem to be appropriate that as is proposed in your telegram of February 18th and in the draft reply to the United States contained in your telegram of the 17th February, only the representative of the Government of Great Britain should take part in the preliminary conversations which are in contemplation. If the question of a formal Conference and an agreement applying to Dominion navies arises, and if an invitation to participate is extended, His Majesty's Government in Canada would have pleasure in appointing representatives. The third method of representation noted in Section V(b) of the Inter-

Imperial Relations Report would in that case appear most appropriate, particularly in view of the fact that this basis of representation will be followed in the League Conference on Disarmament, and that the adoption of a different basis for another conference on a similar subject and in the same centre would create confusion and be difficult to explain or justify. In this connection attention may be called to the suggestion made by the Canadian Government in telegram of March 7th, 1925<sup>1</sup>, when a similar Conference to be called by the United States was under consideration, that separate invitations should be sent to the several governments of the Empire in order to avoid the difficulties which arose in 1921, to which it was replied on April 4th, that His Majesty's Ambassador in Washington was being consulted as to how this could best be secured. Ends.

571.

*Le secrétaire général, Société des Nations, au secrétaire d'État  
aux Affaires extérieures*

*Secretary General, League of Nations, to Secretary of State  
for External Affairs*

Geneva, September 20, 1927

Sir,

Canada having been elected a Member of the Council of the League of Nations during the present Assembly, I have the honour to call your attention to the fact that this election involves the appointment by Canada of one or more representatives to serve on the Permanent Advisory Commission of the League of Nations for Military, Naval and Air Questions (P.A.C.).

As you are aware, this Commission was constituted in accordance with Article 9 of the Covenant "to advise the Council on the execution of the provisions of Articles 1 and 8 and on military, naval and air questions generally". The Commission consists of three representatives (military, naval and air) of each country represented on the Council. The same representative may exercise more than one of these functions if his Government so desires.

I should therefore be glad if you would kindly send me, for communication to the Commission, a list of the representatives whom the Canadian Government proposes to appoint.

I enclose the rules of procedure<sup>2</sup> of the Commission.

I have etc.

ERIC DRUMMOND

<sup>1</sup> Volume 3, document 472.

<sup>2</sup> Non reproduites.

<sup>1</sup> Volume 3, Document 472.

<sup>2</sup> Not printed.

572.

*Le secrétaire général, Société des Nations, au secrétaire d'État  
aux Affaires extérieures*

*Secretary General, League of Nations, to Secretary of State  
for External Affairs*

Geneva, October 10, 1927

Sir,

The Dominion of Canada having at the last session of the Assembly been elected a member of the Council of the League of Nations, I have the honour to draw the attention of your Government to the fact that Canada is in consequence entitled to be represented on the Preparatory Commission for the Disarmament Conference . . . .

I have etc.

ERIC DRUMMOND

573.

*Le secrétaire d'État aux Affaires extérieures au Conseiller*

*Secretary of State for External Affairs to Advisory Officer*

TELEGRAM

Ottawa, November 28, 1927

Government has appointed you representative on Preparatory Commission Disarmament Conference. We have notified Secretary-General. Instructions will follow. Please keep us advised freely of developments.

574.

*Le sous-secrétaire d'État aux Affaires extérieures au Conseiller*

*Under-Secretary of State for External Affairs to Advisory Officer*

Ottawa, December 16, 1927

My dear Dr. Riddell,

I am in receipt of your letter of December 1st, acknowledging receipt of our telegram of the 29th November appointing you to represent Canada on the Preparatory Disarmament Commission.

The instructions referred to in the telegram have not been sent, as Council has not yet had an opportunity of considering the matter. They will, I expect, be sent in good time for consideration before the next sessions of the Preparatory Disarmament Commission and the Security Committee.

Yours sincerely,

O. D. SKELTON

575.

*Le secrétaire d'État aux Affaires extérieures au Conseiller*  
*Secretary of State for External Affairs to Advisory Officer*

TELEGRAM

Ottawa, January 19, 1928

Please inform Secretary General Canadian Government has nominated Lieutenant Colonel G. P. Vanier D.S.O., M.C. Royal Twenty-second Regiment to represent Canada on Permanent Advisory Commission. Please advise when Commission is expected to meet next and also whether reply has been sent to our inquiry December twenty-seventh regarding expenses.

576.

*Le secrétaire d'État aux Affaires extérieures au Conseiller*  
*Secretary of State for External Affairs to Advisory Officer*

TELEGRAM

Ottawa, [February 18, 1928]

Following general instructions from Government regarding Security Committee. You are requested to advise immediately of developments in Committee whereupon consideration will be given as to special points. Instructions refer to last four paragraphs of resolution number five of Eighth Assembly.

One. *Special or collective agreements arbitration and security.* (a) "Arbitration". Pacific settlement international disputes primary task of League whether attained by developing further machinery of League itself or by promoting treaties providing for special agencies. In [which] case emphasize value conciliation and investigation as distinct from traditional arbitration. It is presumed provision will be made for multilateral treaty or model bilateral treaties furthering arbitration in justiciable and conciliation in non-justiciable disputes through special ad hoc commission. Special attention is called to desirability of states which on geographical or other grounds have numerous difficulties considering establishment permanent Commission consisting equal numbers eminent citizens each country for investigation and report or decision [as] Canada and United States have established International Joint Commission [for] primary purpose determining uses of boundary waters but with addition of investigation and report upon any boundary question affecting right of state or inhabitants referred by either party and also provision for referring by joint consent for decision any matter of difference whatsoever. Experience has shown great value of permanence and equality in numbers in such a commission in creating definite standards of procedure and inspiring mutual confidence and impartiality in members. Every question but one referred to commission has been decided by unanimity. For details see Treaties Canada and United States eighteen fourteen to nineteen twenty-five page three hundred and twelve. (b) "Security". Emphasize view security not synonymous with sanctions. League gives security by creating will and habit

and atmosphere of co-operation and by providing machinery for solution international difficulties. Undertakings of military and economic pressure against state violating Covenant have place but on whole this is least distinctive and least profitable course for League to develop. Most effective sanction whether in international or in industrial disputes is force of informed and focussed public opinion. Canadian experience under the Lemieux Act has shown this method more effective than attempts at compulsory adjudication. Further it is our view that particularly at present time security may be advanced more effectively by disarmament than by increased pledges armed assistance. Canadian experience of working of naval disarmament on Great Lakes proves how absence of armed forces promotes confidence and does away with the suspicion and fear of a war psychology. See Rush-Bagot agreement, Treaties, page twelve.

Two. *Systematic preparation of machinery to ensure performance of obligations of Covenant.* Regarding Article Eleven agree desirable perfect arrangements for speedy and effective action Council and Assembly in emergencies. As to Article Ten Canadian Government considers this Article, which states a general principle of which application must be deduced from specific articles following, is to be interpreted by the resolution of Fourth Assembly. Regarding Article Sixteen any increase or elaboration of obligations of League members should await progress in solving problem of possible attitude of neutral states outside League. Further, regarding proposal financial assistance victims of aggression, agreed desirable explore avenues of such financial co-operation as contemplated in Article Sixteen but objection should be taken to any scheme involving automatic decision of liability of member to contribute. Important in this and other connections to emphasize fact that Council cannot decide aggressor. We consider resolutions of 1921, making clear that it is duty each member League to decide for itself whether breach of Covenant has been committed, are still in force. See Report on Article Sixteen, A Fourteen nineteen twenty-seven V and discussions by Loudon and Brouckere in Third Committee, Eighth Assembly. Decision as to aggression and as to amount if any of contribution must be made by responsible authorities at time and in light of facts of particular case.

Three. *Agreements by some members of League to make special commitments proportionate to degree of geographical or other solidarity with other states.* Such agreements will require careful scrutiny to prevent lapsing into ordinary military alliances. They should be applicable to aiding either party in possible dispute as circumstances warrant. Question of bearing of such agreements on provisions of Covenant for settling disputes and on obligations of other members will require consideration.

Four. *Invitation to states to inform Council of special military measures they are prepared to take in event of conflict in a given region.* Doubtful whether this provision has much value beyond enabling Locarno powers to notify League again of pledge on Franco-German border. Unless aid is to be available for either party such notice might well increase rather than allay



tension. In most cases not possible make commitment in advance as decision must rest with Parliament upon consideration of duty and interest in light of circumstances of particular case.

577.

*Le Conseiller au secrétaire d'État aux Affaires extérieures*  
*Advisory Officer to Secretary of State for External Affairs*

TELEGRAM

Geneva, February 24, 1928

Conference concluded general discussion Wednesday. Wednesday morning made statement based on your cablegrams. Thursday, intervened in debate on advantages of multilateral or general treaties and model bilateral treaties stating my instructions left me free to support either type but felt after listening to discussion latter would produce better results. What attitude should I take on possible proposals: first, that Committee should recommend that Council use good offices to further negotiation of arbitration and conciliation treaties where conditions appear insecure: second, that Committee should draft model multilateral or general treaty.

RIDDELL

578.

*Le secrétaire d'État aux Affaires extérieures au Conseiller*  
*Secretary of State for External Affairs to Advisory Officer*

TELEGRAM

Ottawa, February 27, 1928

Your telegram of February 24th. There would seem no objection to proposal that Council should use good offices to further negotiation of arbitration and conciliation treaties where conditions appear insecure, subject to character of provisions as to sanctions if any. As to drafting model multilateral or general treaty, while it is desirable to keep open all paths of possible settlement of disputes, advisability of such action at present would depend on whether general acceptance of such treaty is proposed as a necessary condition of disarmament and whether such general acceptance appears probable from attitude of governments represented.

579.

*Le sous-secrétaire d'État aux Affaires extérieures au Conseiller*  
*Under-Secretary of State for External Affairs to Advisory Officer*

Ottawa, February 28, 1928

My dear Dr. Riddell,

I have today been informed by the Department of National Defence that they concur in the designation of Lieutenant-Colonel Vanier as expert adviser

for the session of the Preparatory Disarmament Commission. He will be available to serve also on Sub-Committee A of the Commission if it meets. You are therefore requested so to inform the Secretary-General of the League if occasion warrants, and also to notify Lieutenant-Colonel Vanier on his arrival at Geneva. The Department of National Defence states further that Lieutenant-Colonel Vanier will be available for such appropriate military services in connection with the League of Nations as may from time to time be necessary on account of Canada's position on the Council.

Yours sincerely,

O. D. SKELTON

580.

*Le Conseiller au secrétaire d'État aux Affaires extérieures*  
*Advisory Officer to Secretary of State for External Affairs*

TELEGRAM

Geneva, March 12, 1928

Should appreciate general statement of Government's attitude on disarmament for Preparatory Committee beginning 15th as no instructions have been received, also information regarding budget and strength and armaments at Armistice and present day.

RIDDELL

581.

*Le secrétaire d'État aux Affaires extérieures au Conseiller*  
*Secretary of State for External Affairs to Advisory Officer*

TELEGRAM

Ottawa, March 14, 1928

Your telegram March 12th. No general instructions drafted but shall communicate on special points as Conference develops. Comparative data requested is being procured.

582.

*Le secrétaire aux Dominions au secrétaire d'État*  
*aux Affaires extérieures*  
*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM B.44

London, May 6, 1928

SECRET. IMMEDIATE. Following from Prime Minister. Begins. With reference to my telegram 5th May, Circular B.43. Outlawry. His Majesty's Government in Great Britain, on receipt of United States Ambassador's note, and in view of certain difficulties which, from a preliminary examination, seemed likely to arise out of proposals, were at first of opinion that it might be desirable to consider proposals in detail at an informal meeting of jurists, to be

followed if necessary by a meeting, at which it was hoped Mr. Kellogg would be present, of Ministers of countries concerned. It appeared, however, from interview with United States Ambassador which Secretary of State for Foreign Affairs had on May 3rd, that Mr. Kellogg is opposed to any meeting, either of jurists or of Ministers, and that his view is that there should be no difficulty in way of direct acceptance as proposed treaty is so simple. Reply given by Germany, he regards as in effect an unqualified accepting of the proposals of the United States. His Majesty's Government in Great Britain, in view of this conversation and of further explanation from Mr. Kellogg now take view that wisest course would be to accept the proposed treaty as it stands, intimation of acceptance sets forth sense in which treaty is understood and indicates they have special responsibilities and commitments analogous to those of Monroe Doctrine which draft treaty presumably covers. In a few days draft of proposed reply will be telegraphed.

His Majesty's Government in Great Britain, I would add, feel that question is of such a character that it would be essential that acceptance of United States proposals, if given, should be expressed by formula which would make it clear that acceptance is with concurrence of all His Majesty's Governments, and implies their readiness to subsequently participate in treaty. To this aspect of matter I would ask that urgent consideration may be given. Of course, we contemplate that treaty should be concluded in name of all His Majesty's Governments in accordance with procedure agreed to, for treaties of this nature, at the Imperial Conference. [Ends.]

583.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

PARAPHRASE OF TELEGRAM 100

Ottawa, May 11, 1928

PRIORITY. IMMEDIATE. SECRET. Following from Prime Minister. Begins. Multilateral treaty renouncing war. Your Secret telegram of May 6th received. The course of the discussion between the Governments of France and of the United States has been followed by us with great interest. Draft of the United States leaves undetermined the question of the means by which a peaceful solution may be effected in disputes not covered by present arbitration or conciliation agreements or by League of Nations procedure in case of members of League, and may involve for signatories with previous commitments difficulties of varying degree. For the peace of the world it is, however, of first importance to secure so striking and definite a renunciation of war as an instrument of national policy and explicit undertakings to seek solution of all disputes by pacific means, and the examination of the means to be adopted to this end will doubtless be stimulated by the acceptance of these undertakings. The decision of His Majesty's Government in Great Britain to accept the draft treaty has therefore been learned with pleasure by us.

It is not quite clear to us as to meaning of proposal that acceptance by His Majesty's Government in Great Britain should be in form indicating that His Majesty's other governments concur and will be prepared to participate subsequently in treaty and as to implications of term concurrence in particular. His Majesty's Government in Great Britain we understand has decided to accept, and to that we have no objection to offer of course. If invited to participate, so far as His Majesty's Government in Canada is concerned, we would be prepared to sign treaty and to recommend to Canadian Parliament its acceptance. Question arises, however, as to time and method of participation by Dominion. It appears to us, if it is contemplated that His Majesty's Dominion Governments approving should indicate acceptance now, and sign simultaneously with His Majesty's Government in Great Britain, as we gather from last sentence of your telegram of the 6th May is your wish and would also be ours, to be essential that an explicit invitation covering Dominions should be extended by United States Government. It would be possible to give an immediate acceptance upon receipt of such invitation. Invitation conveyed in the United States note of April 13 appears to be confined to His Majesty's Government in Great Britain, as was appropriate in view of emphasis on necessity of prior endorsement by the leading countries and of tentative character of proposals. We have reason to believe from unofficial statements that the United States, upon intimation of a desire, would be pleased to extend the necessary invitation immediately.

It is observed that His Majesty's Government in Great Britain proposes in its note of acceptance to set forth sense in which treaty is understood, and to indicate certain special responsibilities and commitments and that these observations will be telegraphed shortly to us. We are, in the meantime, considering whether it will be necessary on part of His Majesty's Government in Canada to make any observations particularly as regards the Covenant of the League of Nations. [Ends.]

584.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM B.52

London, May 16, 1928

SECRET. PRIORITY. IMMEDIATE. Treaty proposed for the renunciation of war. The following for Prime Minister from Prime Minister. Begins. For the promptitude with which our various messages of last week have been considered and answered we are greatly indebted to yourself and other Prime Ministers, and we are gratified to find that all His Majesty's Governments are in accord with principles of the United States proposal, and are ready to participate in arrangements to give effect to it on receipt of invitation to that effect.

We propose, with a view to meeting points with regard to invitations raised in replies received from His Majesty's Governments in Canada and in the Irish Free State (which have been communicated to other Governments), to substitute for last paragraph of draft note (Circular B.49 10th May) a new paragraph which is quoted in following telegram B.53 Circular.

Foreign Secretary is arranging to hand to United States Ambassador at the end of this week note as amended. In two or three days I hope to telegraph further with regard to other points arising out of replies received to telegrams of 10th May. [Ends.]

585.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM B.53

London, May 16, 1928

SECRET. Following is new additional paragraph referred to in my telegram Circular B.52. Begins. 13. Your Excellency will observe that detailed arguments in foregoing paragraph are expressed on behalf of His Majesty's Government in Great Britain. It will, however, be appreciated that proposed treaty from its very nature is not one which concerns His Majesty's Government in Great Britain alone, but is one in which they could not undertake to participate in otherwise than jointly and simultaneously with His Majesty's Governments in the Dominions and Government of India. They have therefore been in communication with those Governments and I am happy to be able to inform Your Excellency that as a result of communications which have passed, it has been ascertained that they are all in cordial agreement with general principles of proposed treaty. I feel confident, therefore, that on receipt of an invitation to participate in conclusion of such a treaty they, no less than His Majesty's Government in Great Britain, will be prepared to accept invitation. Ends.

586.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

PARAPHRASE OF TELEGRAM 109

Ottawa, May 18, 1928

PRIORITY. IMMEDIATE. SECRET. Following for Prime Minister from Prime Minister. Begins. With reference to your telegrams of the 16th May, circulars B.52 and B.53, regarding draft note on treaty for renunciation of war.



References to the Dominions in the new additional paragraph set forth in circular B.53 in our opinion fully meet the situation. It is assumed by us that in conveying the invitation to Canada the United States will follow a procedure parallel to that already adopted and convey it through United States Minister at Ottawa. Ends.

587.

*Le sous-secrétaire d'État aux Affaires extérieures au ministre  
des États-Unis*

*Under-Secretary of State for External Affairs to United States Minister*

Ottawa, May 19, 1928

My dear Mr. Phillips,

You may have noted that a question was asked in the House yesterday on the multilateral treaty for renunciation of war. I enclose a copy<sup>1</sup> of the Hansard report of Mr. King's reply.

We have informed the British Government that we are pleased to learn that they have decided to adhere, and that the Canadian Government will also have much pleasure in adhering. It appears to be the wish of all His Majesty's Governments that they should sign simultaneously. To make that possible, it would appear to be desirable that the Dominion Governments should be included in the list of countries invited by the United States to participate as original signatories. I understand that the British Government is bringing this consideration to the attention of the United States Government. If such an invitation is extended to His Majesty's Government in Canada, we assume that it would be transmitted through the United States Legation in Ottawa, in harmony with the method followed in transmitting the original invitation to His Majesty's Government in Great Britain.

As there have been some press statements to the effect that Canada considered that it should have been included in the original invitation, I am instructed to make it clear that there was no foundation for this statement. The Canadian Government fully realized that, in view of the tentative character of the proposals and of the emphasis laid upon the desirability of securing the assent of the leading countries first, the procedure adopted by the United States Government in first discussing the matter with His Majesty's Government in Great Britain was wholly appropriate.

Yours sincerely,

O. D. SKELTON

<sup>1</sup> Non reproduite.

<sup>1</sup> Not printed.

588.

*Le ministre des États-Unis au secrétaire d'État  
aux Affaires extérieures*

*United States Minister to Secretary of State for External Affairs*

No. 124

Ottawa, May 22, 1928

Sir,

In the note which he addressed to the American Ambassador at London on May 19th, 1928, Sir Austen Chamberlain was good enough to inform my Government that His Majesty's Government in Great Britain had been in communication with His Majesty's Governments in the Dominions and with the Government of India and has ascertained that they were all in cordial agreement with the general principle of the multilateral treaty for the renunciation of war which the Government of the United States proposed on April 13th, 1928. Sir Austen added that he felt confident, therefore, that His Majesty's Governments in the Dominions and the Government of India were prepared to accept an invitation to participate in the conclusion of such a treaty as that proposed by the Government of the United States.

I have been instructed to state to you that my Government has received this information with the keenest satisfaction. My Government has hoped from the outcome of the present negotiations that the Governments of the Dominions and the Government of India would feel disposed to become parties to the suggested anti-war treaty. It is, moreover, most gratifying to the Government of the United States to learn that His Majesty's Governments in the Dominions and the Government of India are so favorably inclined towards the treaty for the renunciation of war which my Government proposed on April 13th, 1928, as to wish to participate therein individually and as original signatories, and my Government for its part is most happy to accede to the suggestion contained in Sir Austen Chamberlain's note of May 19th, 1928, to the American Ambassador at London.

Accordingly, I have been instructed to extend to His Majesty's Government in Canada, in the name of the Government of the United States, a cordial invitation to become one of the original parties to the treaty for the renunciation of war which is now under consideration. Pursuant to my instructions, I also have the honor to inform you that the Government of the United States will address to His Majesty's Government in Canada at the same time and in the same manner as to other governments whose participation in the proposed treaty in the first instance is contemplated, any future communications which it may make on the subject of the treaty after it has been acquainted with the view of all the governments to which its note of April 13, 1928, was addressed.

I avail myself etc.

WILLIAM PHILLIPS

589.

*Le secrétaire d'État aux Affaires extérieures  
au ministre des États-Unis*

*Secretary of State for External Affairs to United States Minister*

Ottawa, May 30, 1928

Sir,

I have the honour to acknowledge your note of May 22nd, extending to His Majesty's Government in Canada, in the name of the Government of the United States, an invitation to become one of the original parties to the treaty for the renunciation of war now under consideration.

The Government of Canada is certain that it speaks for the whole Canadian people in welcoming the outcome, in the proposed multilateral pact, of the discussion initiated almost a year ago between the Governments of France and of the United States. It is pleased to find that in this attitude it is in accord with all His Majesty's other governments. The proposals of the United States Government, by their directness and simplicity, afford to the peoples of the world a new and notable opportunity of ensuring lasting peace.

The Dominion of Canada, fortunate in its ties of kinship and allegiance as well as in its historic and neighbourly friendships, and with half a continent as its heritage, is less exposed to the danger of attack or the temptation to aggression than many other lands. Yet the Great War, with its burdens of suffering and of loss, brought home the danger which all countries share, and led Canada to turn with hope to the efforts to build up effective barriers against war which took shape in the League of Nations; it will welcome the present proposals as a manifestation of the same striving for peace.

The question whether the obligations of the Covenant of the League would conflict in any way with the obligations of the proposed pact has been given careful consideration. His Majesty's Government in Canada regards the League, with all its limitations, as an indispensable and continuing agency of international understanding, and would not desire to enter upon any course which would prejudice its effectiveness. It is, however, convinced that there is no conflict either in the letter or in the spirit between the Covenant and the multilateral pact, or between the obligations assumed under each.

The pre-eminent value of the League lies in its positive and preventive action. In bringing together periodically the representatives of fifty states, it builds up barriers against war by developing a spirit of conciliation, an acceptance of publicity in international affairs, a habit of co-operation in common ends, and a permanently available machinery for the adjustment of differences. It is true that the Covenant also contemplates the application of sanctions in the event of a member state going to war, if in so doing it has broken the pledges of the Covenant to seek a peaceful solution of disputes. Canada has always opposed any interpretation of the Covenant which would involve the application of these sanctions automatically or by the decision of

other states. It was on the initiative of Canada that the Fourth Assembly, with a single negative vote, accepted the interpretative resolution to which the Secretary of State of the United States recently referred, indicating that it is for the constitutional authorities of each state to determine in what degree it is bound to assure the execution of the obligations of this Article by employment of its military forces. The question of sanctions has received further consideration by later Assemblies. It is plain that the full realization of the ideal of joint economic or military pressure upon an outlaw power, upon which some of the founders of the League set great store, will require either an approach to the universality of the League contemplated when the Covenant was being drawn, or an adjustment of the rules of neutrality to meet the new conditions of co-operative defence.

In any event, if, as would seem to be the case, the proposed multilateral treaty does not impose any obligation upon a signatory in relation to a state which has not signed the treaty or has broken it, any decision taken to apply sanctions against a member of the League which has made war in violation of its Covenant pledges would not appear to conflict with the obligations of the treaty.

His Majesty's Government in Canada will have pleasure in co-operating in any future negotiations with a view to becoming a signatory to a treaty such as is proposed by the Government of the United States in the invitation which it has extended, and to recommending its acceptance to the Canadian parliament.

Accept etc.

W. L. Mackenzie King

590.

*Le ministre des États-Unis au secrétaire d'État  
aux Affaires extérieures*

*United States Minister to Secretary of State for External Affairs*

No. 140

Ottawa, June 23, 1928

Sir,

It will be recalled that, pursuant to the understanding reached between the Government of France and the Government of the United States, the American Ambassadors at London, Berlin, Rome and Tokyo transmitted on April 13, 1928, to the Governments to which they were respectively accredited the text of M. Briand's original proposal of June 20, 1927, together with copies of the notes subsequently exchanged by France and the United States on the subject of a multilateral treaty for the renunciation of war. At the same time the Government of the United States also submitted for consideration a preliminary draft of a treaty representing in a general way the form of treaty which it was prepared to sign, and inquired whether the Governments thus addressed were in a position to give favorable



consideration thereto. The text of the identic notes of April 13, 1928, and a copy of the draft treaty transmitted therewith, were also brought to the attention of the Government of France by the American Ambassador at Paris.

It will likewise be recalled that on April 20, 1928, the Government of the French Republic circulated among the other interested Governments, including the Government of the United States, an alternative draft treaty, and that in an address which he delivered on April 20, 1928, before the American Society of International Law, the Secretary of State of the United States explained fully the construction placed by my Government upon the treaty proposed by it, referring as follows to the six major considerations emphasized by France in its alternative draft treaty and prior diplomatic correspondence with my Government:

(1) *Self-defense.* There is nothing in the American draft of an anti-war treaty which restricts or impairs in any way the right of self-defense. That right is inherent in every sovereign state and is implicit in every treaty. Every nation is free at all times and regardless of treaty provisions to defend its territory from attack or invasion and it alone is competent to decide whether circumstances require recourse to war in self-defense. If it has a good case, the world will applaud and not condemn its action. Express recognition by treaty of this inalienable right, however, gives rise to the same difficulty encountered in any effort to define aggression. It is the identical question approached from the other side. Inasmuch as no treaty provision can add to the natural right of self-defense, it is not in the interest of peace that a treaty should stipulate a juristic conception of self-defense since it is far too easy for the unscrupulous to mold events to accord with an agreed definition.

(2) *The League Covenant.* The Covenant imposes no affirmative primary obligation to go to war. The obligation, if any, is secondary and attaches only when deliberately accepted by a state. Article ten of the Covenant has, for example, been interpreted by a resolution submitted to the Fourth Assembly but not formally adopted owing to one adverse vote to mean that 'it is for the constitutional authorities of each member to decide, in reference to the obligation of preserving the independence and the integrity of the territory of members, in what degree the member is bound to assure the execution of this obligation by employment of its military forces.' There is, in my opinion, no necessary inconsistency between the Covenant and the idea of an unqualified renunciation of war. The Covenant can, it is true, be construed as authorizing war in certain circumstances but it is an authorization and not a positive requirement.

(3) *The Treaties of Locarno.* If the parties to the treaties of Locarno are under any positive obligation to go to war, such obligation certainly would not attach until one of the parties has resorted to war in violation of its solemn pledges thereunder. It is therefore obvious that if all the parties to the Locarno treaties become parties to the multilateral anti-war treaty proposed by the United States, there would be a double assurance that the Locarno treaties would not be violated by recourse to arms. In such event it would follow that resort to war by any state in violation of the Locarno treaties would also be a breach of the multilateral anti-war treaty and the other parties to the anti-war treaty would thus as a matter of law be automatically released from their obligations thereunder and free to fulfill their Locarno commitments. The United States is entirely willing that all parties to the Locarno treaties should become parties to its proposed anti-war treaty either through signature in the first instance or



by immediate accession to the treaty as soon as it comes into force in the manner provided in Article III of the American draft, and it will offer no objection when and if such a suggestion is made.

(4) *Treaties of neutrality.* The United States is not informed as to the precise treaties which France has in mind and cannot therefore discuss their provisions. It is not unreasonable to suppose, however, that the relations between France and the states whose neutrality she has guaranteed are sufficiently close and intimate to make it possible for France to persuade such states to adhere seasonably to the anti-war treaty proposed by the United States. If this were done no party to the anti-war treaty could attack the neutralized states without violating the treaty and thereby automatically freeing France and the other Powers in respect of the treaty-breaking state from the obligations of the anti-war treaty. If the neutralized states were attacked by a state not a party to the anti-war treaty, the latter treaty would of course have no bearing and France would be as free to act under the treaties guaranteeing neutrality as if she were not a party to the anti-war treaty. It is difficult to perceive, therefore, how treaties guaranteeing neutrality can be regarded as necessarily preventing the conclusion by France or any other power of a multilateral treaty for the renunciation of war.

(5) *Relations with a treaty-breaking state.* As I have already pointed out there can be no question as a matter of law that violation of a multilateral anti-war treaty through resort to war by one party thereto would automatically release the other parties from their obligations to the treaty-breaking state. Any express recognition of this principle of law is wholly unnecessary.

(6) *Universality.* From the beginning it has been the hope of the United States that its proposed multilateral anti-war treaty should be world-wide in its application, and appropriate provision therefor was made in the draft submitted to the other Governments on April 13. From a practical standpoint it is clearly preferable, however, not to postpone the coming into force of an anti-war treaty until all the nations of the world can agree upon the text of such a treaty and cause it to be ratified. For one reason or another a state so situated as to be no menace to the peace of the world might obstruct agreement or delay ratification in such manner as to render abortive the efforts of all the other Powers. It is highly improbable, moreover, that a form of treaty acceptable to the British, French, German, Italian and Japanese Governments as well as to the United States would not be equally acceptable to most, if not all, of the other Powers of the world. Even were this not the case, however, the coming into force among the above-named six Powers of an effective anti-war treaty and their observance thereof would be a practical guaranty against a second world war. This in itself would be a tremendous service to humanity and the United States is not willing to jeopardize the practical success of the proposal which it has made by conditioning the coming into force of the treaty upon prior universal or almost universal acceptance.

The British, German, Italian and Japanese Governments have now replied to my Government's notes of April 13, 1928, and the Governments of the British Dominions and of India have likewise replied to the invitations addressed to them on May 22, 1928, by my Government pursuant to the suggestion conveyed in the note of May 19, 1929, from His Majesty's Government in Great Britain. None of these Governments has expressed any dissent from the above-quoted construction, and none has voiced the least disapproval of the principle underlying the proposal of the United States for the promotion of world peace. Neither has any of the replies received by the Government of the United States suggested any specific modification of the text of the draft treaty proposed by it on April 13, 1928, and my Govern-

ment, for its part, remains convinced that no modification of the text of its proposal for a multilateral treaty for the renunciation of war is necessary to safeguard the legitimate interests of any nation. It believes that the right of self-defense is inherent in every sovereign state and implicit in every treaty. No specific reference to that inalienable attribute of sovereignty is therefore necessary or desirable. It is no less evident that resort to war in violation of the proposed treaty by one of the parties thereto would release the other parties from their obligations under the treaty towards the belligerent state. This principle is well recognized. So far as the Locarno treaties are concerned, my Government has felt from the very first that participation in the anti-war treaty by the powers which signed the Locarno agreements, either through signature in the first instance or thereafter, would meet every practical requirement of the situation, since in such event no state could resort to war in violation of the Locarno treaties without simultaneously violating the anti-war treaty, thus leaving the other parties thereto free, so far as the treaty breaking state is concerned. As you know, the Government of the United States has welcomed the idea that all parties to the treaties of Locarno should be among the original signatories of the proposed treaty for the renunciation of war and provision therefor has been made in the draft treaty which I have the honor to transmit herewith. The same procedure would cover the treaties guaranteeing neutrality to which the Government of France has referred. Adherence to the proposed treaty by all parties to those other treaties would completely safeguard their rights since subsequent resort to war by any of them or by any party to the anti-war treaty would violate the latter treaty as well as the neutrality treaty, and thus leave the other parties to the anti-war treaty free, so far as the treaty-breaking state is concerned. My Government would be entirely willing, however, to agree that the parties to such neutrality treaties should be original signatories of the multilateral anti-war treaty, and it has no reason to believe that such an arrangement would meet with any objection on the part of the other Governments now concerned in the present negotiations.

While my Government is satisfied that the draft treaty proposed by it on April 13, 1928, could be properly accepted by the Powers of the world without change except for including among the original signatories the British Dominions, India, all parties to the treaties of Locarno and, it may be, all parties to the neutrality treaties mentioned by the Government of France, it has no desire to delay or complicate the present negotiations by rigidly adhering to the precise phraseology of that draft, particularly since it appears that by modifying the draft in form though not in substance, the points raised by other Governments can be satisfactorily met and general agreement upon the text of the treaty to be signed be promptly reached. The Government of the United States has therefore decided to submit to the fourteen other Governments now concerned in these negotiations a revised draft of a multilateral treaty for the renunciation of war. The text of this revised draft is identical with that of the draft proposed by the United States on April 13,

1928, except that the Preamble now provides that the British Dominions, India and all parties to the treaties of Locarno are to be included among the Powers called upon to sign the treaty in the first instance, and except that the first three paragraphs of the Preamble have been changed to read as follows:

Deeply sensible of their solemn duty to promote the welfare of mankind;

Persuaded that the time has come when a frank renunciation of war as an instrument of national policy should be made to the end that the peaceful and friendly relations now existing between their peoples may be perpetuated;

Convinced that all changes in their relations with one another should be sought only by pacific means and be the result of a peaceful and orderly process, and that any signatory Power which shall hereafter seek to promote its national interests by resort to war should be denied the benefits furnished by this treaty;

The revised Preamble thus gives express recognition to the principle that if a state resorts to war in violation of the treaty, the other contracting parties are released from their obligations under the treaty to that state; it also provides for participation in the treaty by all parties to the treaties of Locarno, thus making it certain that resort to war in violation of the Locarno treaties would also violate the present treaty and release not only the other signatories of the Locarno treaties but also the other signatories to the anti-war treaty from their obligations to the treaty-breaking state. Moreover, as stated above, my Government would be willing to have included among the original signatories the parties to the neutrality treaties referred to by the Government of the French Republic, although it believes that the interests of those states would be adequately safeguarded if, instead of signing in the first instance, they should choose to adhere to the treaty.

In these circumstances I have the honor to transmit herewith for the consideration of your Government a draft<sup>1</sup> of a multilateral treaty for the renunciation of war containing the changes outlined above. I have been instructed to state in this connection that the Government of the United States is ready to sign at once a treaty in the form herein proposed, and to express the fervent hope that the Government of Canada will be able promptly to indicate its readiness to accept, without qualification or reservation, the form of treaty now suggested by the United States. If the Governments of Australia, Belgium, Canada, Czechoslovakia, France, Germany, Great Britain, India, the Irish Free State, Italy, Japan, New Zealand, Poland, South Africa and the United States can now agree to conclude this anti-war treaty among themselves, my Government is confident that the other nations of the world will, as soon as the treaty comes into force, gladly adhere thereto, and that this simple procedure will bring mankind's age-long aspirations for universal peace nearer to practical fulfillment than ever before in the history of the world.

I have the honor to state in conclusion that the Government of the United States would be pleased to be informed at as early a date as may be

<sup>1</sup> Non reproduit.

<sup>1</sup> Not printed.

convenient whether your Government is willing to join with the United States and other similarly disposed Governments in signing a definitive treaty for the renunciation of war in the form transmitted herewith.

I avail myself etc.

WILLIAM PHILLIPS

591.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM B.66

London, June 26, 1928

CONFIDENTIAL. Renunciation of war. His Majesty's Government in Great Britain are examining the United States note of the 23rd June and will telegraph to the Dominion Governments their observations thereon as early as possible. Meanwhile, it would be helpful to them to receive any observations which any of His Majesty's Governments in the Dominions may be in a position to make. Sent also to the Irish Free State.

592.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 144

Ottawa, June 30, 1928

PRIORITY. CONFIDENTIAL. Your telegram Circular B.66 of 26th June regarding Multilateral Pact. Canadian Government considers it of highest importance to have the leading countries of the world, including the United States, associated in renunciation of war as instrument of national policy. At this stage it seems desirable that such renunciation should take as simple form as possible if it is to carry conviction and strike public imagination. Consideration of the pacific means which are to provide alternative would undoubtedly follow later. The substantial grounds of objection to the former draft appear to have been met by the revised preamble making it clear that any signatory seeking to promote national interest by resort to war will lose benefits of treaty. The point raised by New Zealand Government cited in your telegram No. 83 of 12th May as to Locarno has been specifically and fully met by this change. His Majesty's Government in Canada is not aware of any reason against signing the present draft without reservation.



593.

*Le sous-secrétaire d'État aux Affaires extérieures au ministre  
des États-Unis*

*Under-Secretary of State for External Affairs to United States Minister*

PERSONAL

Ottawa, July 7, 1928

My dear Mr. Phillips,

I have brought to the attention of the Prime Minister, who came in from Kingsmere last night, the enquiry as to whether the Canadian Government would think it well to announce immediately acceptance of the revised Multilateral Treaty for the Renunciation of War. Mr. King was much interested in the possibility and realized its many attractive phases. On the whole, however, he was inclined to the view that it might be considered somewhat presumptuous for a small country like Canada to rush in before its elders, and particularly so in view of the fact that we have not yet received the views of the British Government on the Treaty, though they have advised us that they will be sent very shortly. We conveyed our views to the British Government last week. In so doing no reference was made to the point touched in the extract from the memorandum which I sent you on June 30th<sup>1</sup>. Somewhat curiously, however, the British Government informed us on Thursday of this week that they were considering the same point and were taking it up verbally with the Secretary of State.

Yours sincerely,

O. D. SKELTON

594.

*Le ministre des États-Unis au sous-secrétaire d'État  
aux Affaires extérieures*

*United States Minister to Under-Secretary of State for External Affairs*

Ottawa, July 7, 1928

My dear Dr. Skelton,

In reply to your inquiry of June thirtieth, I am informed that on July sixth the British Chargé d'Affaires called upon the Secretary of State to raise the question of what status under the Kellogg treaties the "Acts of War" defined in Article Sixteen of the covenant would have with respect to members of the League, likewise signatories of the Kellogg pact, the presumption of the British being that a violation of the Kellogg treaties would consist in an act of war, and that among acts of war the one contained in Article Sixteen of the covenant will have to be considered. Article Sixteen reads:

Should any member of the League resort to war in disregard of its covenants it shall *ipso facto* be deemed to have committed an act of war against all other members of the League.

<sup>1</sup> Voir le document suivant.

<sup>1</sup> See next document.



In reply Mr. Kellogg informed Mr. Chilton that as there is no obligation on members of the League to take warlike measures against covenant-breaking states, there can be no inconsistency between the proposed treaty and the covenant of the League, and that as a practical matter the Government of the United States believes that the members of the League will become parties to the proposed treaty. Moreover, Mr. Kellogg said that it is sincerely hoped that legalistic efforts to justify in advance violation of the proposed renunciation of war treaty will not be permitted to obscure the issue or delay the conclusion of this treaty in which the peoples of the world have maintained their whole-hearted approval.

Hoping that this answers your inquiry,

Yours sincerely,

WILLIAM PHILLIPS

595.

*Le secrétaire d'État aux Affaires extérieures au chargé d'affaires  
aux États-Unis*

*Secretary of State for External Affairs to Chargé d'Affaires in United States*

DESPATCH 329

Ottawa, July 9, 1928

Sir,

With reference to your despatch No. 907 of the 27th June, 1928 on the Multilateral Pact, I have the honour to state that the question has received further consideration by the Canadian Government, and as at present advised, they are not aware of any reason against acceptance of the revised treaty. No intimation to this effect has, however, yet been conveyed.

One point of possible difficulty was as to the position in case a signatory (B) to the Kellogg Pact attacked a non-signatory State. B has not violated either of the articles of the Treaty, both of which merely bar war against an aggressor. It might therefore be held, as France and other countries urged when the first draft was issued, that signatory A would still be pledged to keep peace with B and could not go to the assistance of the non-signatory State, even though its sense of justice or its Covenant obligations or treaties of alliance demanded that it should aid C against an aggressor. Thus the Treaty would really safeguard the aggressor State. Some colour is lent to this view by an implication in Mr. Kellogg's note of June 23rd to the effect that if any of the Locarno powers did not sign the treaty, it might not be clear that the signatories would be free to act.

However, the new preamble seems decisive against this interpretation. The release from obligations applies in all cases of resort to war, not merely in case of aggression against a signatory. It reads:

Any signatory which shall hereafter seek to promote its national interests by resort to war should be denied the benefits furnished by the treaty.

Even if the interpretation first mentioned were taken, the difficulty would be a transitory one. The treaty does not go into effect until all the states included in the present invitation have signed and ratified. It may be taken for granted that if these states, which include all the Great Powers except the Soviet Union, accept, all the smaller countries will hasten to sign, so that there will be no non-signatories, or none as to which there would be any practical issue.

On June 30th we informed the British Government that as at present advised we saw no objection to accepting the Treaty as it stood. We have not yet been informed as to the attitude of the British Government. On July 6th we were informed that the British Government was considering the position as to the relations between a signatory and a non-signatory power noted above, and was in doubt whether the phrase "resort to war" was sufficiently general to release a signatory State and enable it to come to the assistance of a non-signatory in the case mentioned.

I understand from Mr. Phillips that on July 6th the British Chargé d'Affaires called upon the Secretary of State to raise the question of what status under the Kellogg treaties the "Acts of War" defined in Article 16 of the Covenant would have with respect to members of the League likewise signatories to the Kellogg Pact. The presumption of the British Government was that a violation of the Kellogg Pact would consist in an act of war, and that among acts of war the one contained in Article 16 of the Covenant would have to be considered. This Article reads:

Should any member of the League resort to war in disregard of its covenants it shall *ipso-facto* be deemed to have committed an act of war against all other members of the League.

In reply Mr. Kellogg is said to have informed Mr. Chilton that as there is no obligation on members of the League to take warlike measures against covenant-breaking states, there can be no inconsistency between the proposed treaty and the Covenant of the League, and that as a practical matter, the Government of the United States believed that the members of the League would become parties to the proposed treaty. Mr. Kellogg added that it was sincerely hoped that legalistic efforts to justify in advance violation of the proposed renunciation of war treaty would not be permitted to obscure the issue or delay the conclusion of this treaty, which the people of the world have whole-heartedly approved.

The question as reported through Mr. Phillips is not exactly the question which, according to our information, the British Government proposed to raise. Mr. Kellogg's answer is not conclusive. He has confused two points. It is true that on the initiative of Canada it has been made clear that it is for each member of the League and not for the Council or the majority of the Council to decide whether or not any other State has broken its pledges. It remains true, however, that once this matter is decided, each signatory is under obligation to visit certain penalties or sanctions upon the State ad-

judged the aggressor. Each member is free to decide whether an aggression has taken place, but it is not free, once it has agreed that this is the case, to let the aggressor go scot free.

We do not see why, except possibly from the fear of creating a precedent, the United States should not frankly say, either by amending the preamble or by an interpretative note, that the phrase "resort to war" covers all cases of war by a signatory, whether against another signatory or against a non-signatory. It might have been held by Mr. Kellogg that this would open loopholes for evasion. His own view, however, is that if the Great States accept all the smaller States will immediately join, so that there will be no non-signatory State remaining, and therefore no opportunity for loopholes of this nature.

We do not wish at present, however, to make any representations to the United States on this matter. We have informed the British Government of our own interpretation of the points at issue.

I have etc.

O. D. SKELTON  
for the Secretary of State  
for External Affairs

596.

*Le chargé d'affaires aux États-Unis au secrétaire d'État  
aux Affaires extérieures*

*Chargé d'Affaires in United States to Secretary of State  
for External Affairs*

DESPATCH 1078

Washington, July 12, 1928

Sir,

I have the honour to acknowledge your despatch No. 329 of July 9th, 1928, concerning the acceptance by the Government of Canada of the revised text of the Kellogg treaty. It appeared to me to be advisable to discuss the contents of this despatch with the British Embassy in order to verify the report which had reached you through Mr. Phillips of the interview on July 5th between Mr. Kellogg and the British Chargé d'Affaires. Mr. Chilton returned yesterday to the summer Embassy in Massachusetts; but Sir John Broderick, who accompanied Mr. Chilton when he saw the Secretary of State, has been good enough to give me full information and to show me copies of the cables sent to the Foreign Office by Mr. Chilton.

2. The difficulty which Mr. Chilton was instructed to discuss with Mr. Kellogg was, on the whole, the same as that which is stated in the second paragraph of your despatch, though the British Government primarily regarded this difficulty in the light of its obligations to the League of Nations. In presenting it to the Secretary of State, Mr. Chilton and Sir John Broderick gave, as a concrete example of the difficulty, the situation which would arise

under the new treaty, if Czechoslovakia, a signatory, were to attack without provocation, Jugo-Slavia, a non-signatory. Since both these states are League powers, the machinery of the League would presumably be invoked by Jugo-Slavia. Would Great Britain and France, let us say, be prevented by the new treaty, from giving Jugo-Slavia armed assistance, even though Czechoslovakia had clearly committed an act of war under Article 16 of the Covenant and had been declared an aggressor? It will be seen from this illustration that all the points which you mention in your despatch were covered during Mr. Chilton's conversation with Mr. Kellogg. The British Government also expressed the view that signature of the new treaty might even be interpreted as a violation of the provision of Article 20 of the Covenant to refrain from entering into any engagements inconsistent with the terms of the Covenant.

3. Mr. Chilton and Sir John Broderick saw Mr. Kellogg on the morning of July 5th and had a long discussion of the points at issue. Feeling that Mr. Kellogg had not completely grasped the point of view of the British Government at this meeting, they saw him once more on the afternoon of the same day and made certain that their position was clearly understood. Mr. Kellogg definitely refused to consider any modification of the text of the treaty or preamble and said that the interpretation which the British Government sought to place upon the treaty would leave the League powers free to do pretty much as they chose. Mr. Chilton then requested Mr. Kellogg to consider the matter over night. Next morning Mr. Chilton was handed a written memorandum, the contents of which Mr. Phillips appears to have communicated to you.

4. It is clear that Mr. Kellogg's answer does not place an interpretation on the new phrase of the preamble which will meet the difficulty of an attack by a signatory upon a non-signatory power. This difficulty, of course, affects all signatories of the treaty whether or not they are members of the League; but it is seen most acutely when it is regarded in connection with the application of the League machinery against an aggressor. I gather that the concern of the British Government is entirely to insure that the effectiveness of the Covenant should not be diminished by the new treaty. As you observe, the difficulty is transitory and will almost disappear when all League states have signed the new treaty; and it will disappear entirely if all states should subscribe. The period of transition, however, may last for some years so that the difficulty certainly cannot be regarded as frivolous or quibbling.

5. I have taken note of the observations which you make on page 3 of your despatch concerning Mr. Kellogg's interpretation of the obligations assumed under the Covenant by members of the League. Sir John Broderick tells me that a view similar to that which you express was put forth several times during the discussion in order to attempt to convince Mr. Kellogg that there was reality in the contention that his treaty might weaken the League. As I understand the Covenant, each member state has two choices to make before it takes action against an aggressor. First, it decides for itself whether the offending state has, in fact, broken its pledges; secondly, after the first



question has been answered in the affirmative, it decides for itself whether it will participate in any active operations to bring the offender to justice. It is easy to imagine conditions arising in which the use, or the threat, of armed force might be essential to prevent triumphant aggression. Though Mr. Kellogg is right in saying that "the Covenant imposes no affirmative primary obligation to go to war", he is hardly correct in assuming that on this account a renunciation of war by the great League powers might not affect the League sanctions so long as some members of the League have not signed his treaty. It therefore seems to be apparent that Mr. Kellogg holds that Great Britain and France, to return to the hypothetical illustration, would be prevented by his treaty from aiding Jugo-Slavia by arms if she were the victim of an unprovoked attack by Czechoslovakia.

6. This limited interpretation of the new phrase of the preamble is, of course, Mr. Kellogg's own, and other powers are by no means bound to interpret it in the same manner. I feel, however, that it might be wise to consider whether Mr. Kellogg's attention should not now be drawn to the views of the Government of Canada, especially in consideration of Canada's status as a member of the Council of the League. The case for a slight amendment to the text is strong, and I cannot see that an amendment designed to meet the difficulty would in any way affect the real value of the treaty. It may be, of course, that the British Government has now decided to accept the text as it stands and in this case representations from Canada alone would probably be unwise. I gather that the British Government does not intend to make any further approach to Mr. Kellogg for the present, since Mr. Chilton has been authorized by the Foreign Office to leave Washington.

7. I learn from the Department of State that the reply of the German Government has already been received and that the reply of the French Government is expected by the end of this week. Mr. Kellogg also informed Mr. Chilton that several states which had not been invited to sign the treaty have expressed their willingness to participate; these include Spain, Hungary, Jugo-Slavia and several countries of Latin America.

I have etc.

H. H. WRONG

597.

*Le chargé d'affaires aux États-Unis au sous-secrétaire d'État  
aux Affaires extérieures*

*Chargé d'Affaires in United States to Under-Secretary of State  
for External Affairs*

Washington, July 12, 1928

My dear Dr. Skelton,

It may be useful for me to add a little information to that which is conveyed in my despatch of today on the Kellogg treaty. The root of the



difficulty in securing any modification of the text is that Mr. Kellogg regards his treaty as being of much greater importance than the League, while most League powers regard it as a possible buttress to the League which may or may not be of serious value. When, therefore, difficulties connected with League obligations are pointed out to Mr. Kellogg, he is inclined to be impervious, and his receptivity has not been improved by the torrid weather from which we have been suffering. The insistence by the British Government especially, on the necessity of safeguarding the complete integrity of the Covenant seems to have served only to strengthen Mr. Kellogg's determination not to alter his text by one iota.

At the same time I am inclined to believe that he has not fully grasped the difficulty and that if the question were put to him in a fresh form by Canada he might be induced to recede from his position. If such a presentation were made it would probably be wise to say little about the League and to concentrate discussion on the possible difficulties arising if any signatory state should attack any non-signatory state—e.g. Japan and China, or Italy and Turkey. Whether such an approach is advisable seems to depend largely on what the British Government is now going to do, and on this the British Embassy has no information as yet. Mr. Kellogg is very likely to be more amenable, in his present frame of mind, to an approach directed from Ottawa than to one directed from Downing Street.

One point in your despatch of July 9th eludes me, and that is the meaning of the phrase in line 4 of paragraph 2 "both of which merely bar war against an aggressor". Should not "signatory state" be substituted here for "aggressor"?

I am sending Mr. Massey a copy of my despatch and of this letter.

Yours sincerely,

H. H. WRONG

598.

*Le secrétaire d'État aux Affaires extérieures  
au ministre des États-Unis*

*Secretary of State for External Affairs to United States Minister*

Ottawa, July 16, 1928

Sir,

I desire to acknowledge your note of June 23rd and the revised draft which it contained of the Treaty for the Renunciation of War, and to state that His Majesty's Government in Canada cordially accepts the Treaty as revised and is prepared to participate in its signature.

Accept etc.

W. L. MACKENZIE KING

599.

*Le secrétaire d'État aux Affaires extérieures au chargé d'affaires  
aux États-Unis*

*Secretary of State for External Affairs to Chargé d'Affaires  
in United States*

DESPATCH 344

CONFIDENTIAL

Ottawa, July 17, 1928

Sir,

I have the honour to acknowledge your despatch No. 1078 of July 12th with reference to the revised draft of the Treaty for the Renunciation of War.

2. I find myself in agreement with the views set forth in your despatch. In view, however, of Mr. Kellogg's expressed unwillingness to consider further revision and particularly in view of the situation created by the fact that acceptance has already been given by Germany, Italy and France, it does not appear feasible to press further the suggestion of a slight amendment of the text, however reasonable it would appear.

3. We had taken the view that the phrase "resort to war" should be interpreted to cover war by a signatory against a non-signatory, but we have come to the same conclusion reached by the British, French and German jurists that particularly in view of the phrase in the same paragraph "all changes in their relations with one another" this interpretation is not tenable. The jurists in question took the view that war in fulfilment of obligations under the Covenant of the League of Nations would not be considered war in the sense of an instrument of national policy, and that it would, therefore, be possible to accept the Treaty subject to this interpretation. The British Government, therefore, decided to accept subject to such interpretation. We find ourselves unable to agree that this interpretation completely avoids the difficulty in question. It meets the undertaking in Article 1, but does not meet the undertaking in Article 2, to seek by pacific means "the settlement or solution of all disputes or conflicts of whatever nature or of whatever origin they may be which may arise amongst them".

4. We have, therefore, informed His Majesty's Government in Great Britain that we did not consider it feasible to put forward either of the above interpretations, but that we will rely upon the assumption that the difficulty would be a hypothetical one in view of the practical certainty of speedy signature by all states as to which the difficulty in question might arise. We have since been informed by the British Government that in view of the terms of the French and German notes they are modifying their draft by omitting from it the interpretation along the lines in paragraph 3 above.

5. The United States Minister is today being informed that the Canadian Government has pleasure in accepting the revised draft and will be prepared to participate in its signature.

I have etc.

O. D. SKELTON  
for the Secretary of State  
for External Affairs

600.

*Le sous-secrétaire d'État aux Affaires extérieures au chargé d'affaires  
aux États-Unis*

*Under-Secretary of State for External Affairs to Chargé d'Affaires  
in United States*

PERSONAL

Ottawa, July 17, 1928

My dear Mr. Wrong,

If we had got it underway earlier there might have been a possibility of Mr. Kellogg accepting from us a suggestion for a slight change in the wording of the Multilateral Pact even though he had declined to accept the suggestion from Great Britain. Whether he did not fully understand the force of the point or felt he had no responsibility for difficulties that any members of the League of Nations found themselves in, or whether he feared that assent to any change, however formal, would lead at once to suggestions for other proposals, it is difficult to say. Once, however, Germany, Italy and France had accepted, any possibility of further revision obviously became out of the question.

Yours sincerely,

O. D. SKELTON

601.

*Le chargé d'affaires aux États-Unis au sous-secrétaire d'État  
aux Affaires extérieures*

*Chargé d'Affaires in United States to Under-Secretary of State  
for External Affairs*

Washington, July 26, 1928

My dear Dr. Skelton,

I received your note of July 23rd. When I wrote that certain of the replies on the Kellogg Treaty covered "pretty explicitly" the doubtful point under discussion, I had not yet received your despatch of July 17th. In view of the

information contained in that despatch I can see that my expression is too strong. The following extracts from the French, Polish and South African notes seem to leave open the question whether aggressive war against a non-signatory state is a breach of the treaty.

FRANCE—The signatory power which hereafter might seek, by its resorting to war, to promote its own national interests should be denied the benefits of the treaty.

POLAND—Every state signatory to the pact who may endeavour to realize its national interests by means of war shall be deprived of the benefits of the said pact.

SOUTH AFRICA—Any signatory who shall seek to promote its national interests by resorting to war shall forfeit the benefits of the treaty.

The British and Australian replies do not seem capable of bearing so broad an interpretation, since the British note specifies that the resort to war must be "against another signatory", and the Australian, that it must be "in violation of the treaty", before the other signatories are released from the terms of the treaty.

May I inflict on you briefly, my opinion of the treaty's importance to Canada? Insofar as it may serve to prevent the outbreak of war anywhere it has general utility. There is, however, a special value in its effect on relations between Canada and the United States since it constitutes a real guarantee against war. The Arbitration Treaty and the Boundary Waters Treaty provide judicial means for the settlement of certain types of dispute. The Bryan Treaty imposes a lengthy investigation on all other disputes before resort to war. Now, the Kellogg Treaty gives an inclusive undertaking that, even if all means of conciliation fail, war shall not ensue. Whatever may be the chances of the treaty being faithfully observed and generously interpreted by other powers, the United States, as author of the treaty, is bound more strongly than any other signatory to observe both letter and spirit.

In consequence I look on the treaty as a real promise of immunity in the future from attack by the only power which could invade Canada. The danger of such an attack is very remote but the existence of the treaty may serve to calm opinion in times of heat such as occurred during the presidential election of 1844, on several occasions in the Civil War, at the time of the Fenian Raids, during the Venezuela controversy, and even during the Alaskan boundary dispute. And there is always the possibility that Canada may be affected by any serious conflict between British and American interests abroad. Therefore I feel that the treaty is a real fortification of our undefended frontier.

Yours very sincerely,

H. H. WRONG

602.

*Le sous-secrétaire d'État aux Affaires extérieures au chargé d'affaires  
aux États-Unis*

*Under-Secretary of State for External Affairs to Chargé d'Affaires  
in United States*

Ottawa, July 31, 1928

My dear Mr. Wrong,

I have your letter of July 26th regarding the Kellogg Treaty.

I am much interested in your statement of the Treaty's importance to Canada, and wholly agree with you. If the Treaty remains nothing more than an affirmation of principle, it will be of distinct value to Canada, and still more so, of course, if in the course of time, the logical steps are taken to provide the specific means of settlement which are henceforward to be the only alternative to war. There is practically nothing, so far as Canada is concerned, on the debit side of the sheet. The possible restriction on our right to go to the aid of a non-signatory state attacked by a signatory, is a formal and presumably a transitory restriction, which from the Canadian point of view is, as non-academic people like to say, an academic restriction of no direct importance to Canada.

Yours sincerely,

O. D. SKELTON

603.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM B. 98

London, July 31, 1928

IMMEDIATE. CONFIDENTIAL. My telegram of the 27th July, Circular B.93. Note has been received from the French Ambassador inviting representatives of His Majesty's Governments in Great Britain, Canada, Commonwealth of Australia, New Zealand, Union of South Africa, and the Irish Free State, and the Government of India, to sign treaty for the renunciation of war at Paris on 27th August. Note states that the United States Secretary of State, who took initiative in proposing the treaty, is to participate in ceremony. Note asks that names of representatives authorized by respective Governments to sign may be communicated as soon as possible.



604.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 164

Ottawa, July 31, 1928

CONFIDENTIAL. Your telegram Circular B.93, July 27. Secretary of State for External Affairs is arranging to attend and sign on behalf of His Majesty's Government in Canada. Formal request for full powers will be sent as soon as invitation received.<sup>1</sup>

605.

*Le secrétaire d'État aux Affaires extérieures au Conseiller  
Secretary of State for External Affairs to Advisory Officer*

TELEGRAM 19

Ottawa, April 13, 1929

Preparatory Disarmament Commission. Pending definite determination of agenda, we have no specific instructions to send. While press reports will doubtless be extensive we wish to be informed daily of any special developments requiring consideration. The British Government has communicated outline of proposed attitude on general questions which appears to be well calculated to effect eventual progress.

606.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM 52

London, April 23, 1929

SECRET. Geneva Gas Protocol. The Committee of Imperial Defence met this afternoon and has recommended ratification in respect of the United Kingdom subject to reservations detailed in my secret telegram, Circular A.13, of the 20th April. Replies to above telegram in favour of ratification have been received from Commonwealth, New Zealand and Union Governments. I should be grateful for Canadian Government's reply at the earliest possible moment. Lord Cushendun in the meantime is being informed of the view of His Majesty's Government in the United Kingdom as described

<sup>1</sup> La requête fut soumise le 9 août et le Traité, signé à Paris le 27 août de la même année, fut ratifié le 2 mars 1929.

<sup>2</sup> The request was made on August 9, 1928. The Treaty was signed at Paris on August 27, 1928, and it was ratified by Canada on March 2, 1929.

above, but is being asked to delay if possible making statement until views of all Dominions are available, with discretion however, if circumstances absolutely necessitate it, to make statement immediately.

607.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 71

Ottawa, April 23, 1929

CONFIDENTIAL. IMMEDIATE. Your telegrams Circular A. 13 and A. 16 regarding gas warfare. Canadian Government considers it would be advisable to ratify Protocol on condition of reciprocity and on condition of not being bound if enemy or allies violate agreement. Please advise what decision reached as to your instructions to Lord Cushendun. We have instructed Riddell that if Lord Cushendun announces decision of His Majesty's Government in United Kingdom to ratify, Riddell should inform Commission that Canadian Government proposes to advise ratification on basis of reciprocity.

608.

*Le Conseiller au secrétaire d'État aux Affaires extérieures  
Advisory Officer to Secretary of State for External Affairs*

TELEGRAM 48

Geneva, April 30, 1929

Lord Cushendun, speaking for His Majesty's Government in Great Britain and at the request of His Majesty's Government in the Commonwealth of Australia, His Majesty's Government in New Zealand, His Majesty's Government in the Union of South Africa and His Majesty's Government in the Irish Free State, said that these Governments would advise ratification of Gas Protocol on basis of reciprocity. I informed the Commission that the Canadian Government intended to take same course.

609.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM B.142

London, September 20, 1929

SECRET. Naval Disarmament. My telegram 15th September, Circular B. 140, Very Secret. Following from Prime Minister for Prime Minister. Begins. An understanding was reached, as will be seen from Secretary of State's telegram of August 13th, B.117, with the United States Government that, provided

agreement was reached upon the principles involved, the date of the "Five Power" Conference should, subject to the concurrence of the other Governments concerned, be advanced from August 1931 (as provided in Washington Agreement) to December 1929. The position as set out in my telegram under reference is such that it appears that there is no point outstanding of such serious importance as to be an obstacle to summoning of an early conference. However, it now appears impossible to make arrangements for conference to be held in December and the United States Government are in accord with us in considering it desirable that a conference should be held in London at the beginning of the third week of January 1930, to consider categories not covered by the Washington Treaty and to study questions which would otherwise be discussed in the year 1931 under the terms of the Washington Treaty.

You will agree I am sure in desirability of course proposed and I hope you will be able to send a representative to take part in conference in January. In immediately following telegram from Secretary of State B.143 is text of note which, subject to concurrence of the United States Government, it is proposed to issue to the Governments of France, Italy and Japan. Should be glad to learn as early as possible whether you have any observations to offer in regard to terms of proposed note which I am most anxious should be despatched before I leave for Washington on the 28th September. Ends.

610.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM B.181

London, November 22, 1929

IMPORTANT. SECRET. Following from Prime Minister to your Prime Minister. Begins. We have now given further consideration to the arrangement in connection with proposed Naval Conference in London. As regards date we propose that first session should take place Tuesday, 21st January. As regards composition, our feeling is that it would be desirable that technical experts should not be nominated as delegates though the experts would naturally be present in the Conference rooms in an advisory capacity. We hope that arrangement suggested above will be convenient to His Majesty's Governments in the Dominions. We are also communicating with the Foreign Governments concerned on the subject. We should be glad to receive, at an early date, particulars of composition of Dominion delegations. So far as United Kingdom is concerned, we should propose that delegates should be selected from Ministers of the Crown. As regards foreign countries, Japanese Government have informed us that their delegates will be: Reijiro Wakatsuki (former Prime Minister), Admiral Takeshi Taharabe (Minister of Navy) and Tsuneo Matsudaira (Ambassador in London). Ends.

611.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 204

Ottawa, December 21, 1929

Your telegram Circular B.205 of 16th December, 1929. London Naval Conference. Canadian Government is appointing Honourable J. L. Ralston, C.M.G., D.S.O., K.C., Minister of National Defence of Canada, as its delegate. Staff will consist of Commodore Walter Hose, C.B.E., Chief of the Naval Staff, Canada, L. B. Pearson, First Secretary, Department of External Affairs, Ottawa, and Lieutenant-Colonel G. P. Vanier, D.S.O., M.C., Member of Permanent Advisory Commission, Geneva.

612.

*Le Haut commissaire au secrétaire d'État aux Affaires extérieures  
High Commissioner to Secretary of State for External Affairs*

TELEGRAM 4

London, January 21, 1930

SECRET AND CONFIDENTIAL. Following from Colonel Ralston to the Prime Minister. Begins. Informal meeting of Heads of Delegations held yesterday to discuss procedure at which all Dominions represented. Decided that at first Plenary Session on Thursday statement made should be concerned with needs rather than demands and programme. Afterwards British Prime Minister discussed with Dominions' delegates whether, in view of uneasiness of some of the other delegates as to the number of representatives from the British Commonwealth, Dominions might not be represented in turn at such informal gatherings in the future as distinct from Plenary and Committee Sessions. I objected on the ground that this might suggest adoption of panel system which Dominions had previously rejected but proposed all Dominions be invited to such informal meetings, and that owing to the fact that there would only be one representative from each of the other Powers they should not all attend. They should agree among themselves as to what Dominion representative should attend, such selection to be made not by rotation but depending on subject to be discussed. Dominion representative chosen, however, would only represent his own Government. British Prime Minister had some doubt as to feasibility of this procedure. Some discussion followed but anticipate that it will eventually be accepted unanimously. General atmosphere of the preliminary meeting exceedingly cordial. Quite understand British Prime Minister having difficulty regarding large aggregate Commonwealth representation. Have indicated that we will co-operate to mitigate his anxiety on this score in every way possible making clear necessity for good of all concerned that constitutional position be understood and recognised. Ends.

613.

*Le Haut commissaire au secrétaire d'État aux Affaires extérieures*  
*High Commissioner to Secretary of State for External Affairs*

TELEGRAM 5

London, January 22, 1930

SECRET AND CONFIDENTIAL. Following from Colonel Ralston to the Prime Minister. Begins. London Naval Conference. If I decide to speak at Plenary Session tomorrow on Naval needs, I propose to say that "Canada agrees that her Naval requirements will not be such as to cause aggregate of Naval services of Great Britain and of the different Dominions to exceed total strength indicated by the Prime Minister of Great Britain." Ends.

614.

*Le secrétaire d'État aux Affaires extérieures au Haut commissaire*  
*Secretary of State for External Affairs to High Commissioner*

TELEGRAM 4

Ottawa, January 22, 1930

IMMEDIATE. SECRET AND CONFIDENTIAL. Following from Prime Minister for Colonel Ralston. Begins. Your suggested statement meets with our approval. Ends.

615.

*Le Haut commissaire au secrétaire d'État aux Affaires extérieures*  
*High Commissioner to Secretary of State for External Affairs*

TELEGRAM 8

London, January 23, 1930

SECRET AND CONFIDENTIAL. Following from Colonel Ralston for Prime Minister. Begins. At Plenary Meeting this morning Thursday matter of programme not considered but rather conditions which made Naval Armaments necessary, therefore I withheld statement already communicated and decided to refrain from any statement at this juncture regarding needs, since the United States which was first Power to speak declined, I think for psychological reasons, to open discussion with what no doubt would have been imposing statement of needs. I considered that if this was immediately followed by enumeration of Naval requirements of Australia and Canada so early in discussion might give the impression that some preconcerted plan by British countries bolster up rather than reduce Naval strength. Statement of other Powers short non-contentious though Italy specifically claimed parity with any European Continental Power. Ends.



616.

*Le secrétaire d'État aux Affaires extérieures au Haut commissaire*  
*Secretary of State for External Affairs to High Commissioner*

TELEGRAM 7

Ottawa, January 30, 1930

IMMEDIATE. SECRET AND CONFIDENTIAL. Following for Colonel Ralston from Prime Minister. Begins. We have received telegram from Minister External Affairs Dublin which has also been sent to London and Pretoria, stating that he is much perturbed that status of Dominions is being undermined at Conference. It is stated that communiqué issued 28th January concerning Japanese Delegation and Delegations of the Commonwealth implied that there was only one delegation from all nations of Commonwealth and that the Commonwealth was a single country and further that proposal to use what is in fact panel system on Standing Orders Committee is entirely opposed to procedure fixed at Geneva and to principle of co-equal representation. Irish Free State Government considers maintenance of this principle absolutely essential for peace and harmony of Commonwealth.

We have no information regarding Japanese communiqué to which reference is made in Dublin telegram and are not aware what proposals have been made regarding representation on Standing Orders Committee. We noted from your telegram of 21st January that difficulty as to representation had again arisen and concur in your view that particularly in circumstances of minor direct Dominion interest it would be desirable to meet as far as possible any real difficulties which arise as to representation. It is however important to make certain that the difficulties are real. As there is no question of matters being settled by majority vote it is difficult to understand what sound objection can be taken to representation of all Dominions on Committees beyond mere question of convenience and numbers in room. We should like to be informed as to source and ground of objections if any which have been taken. Please advise immediately as to Japanese communiqué and any other phases of question with your own view on position. Have discussed with Mr. Lapointe who was familiar with similar development at Geneva and considers matter one of importance. Ends.

617.

*Le Haut commissaire au secrétaire d'État aux Affaires extérieures*  
*High Commissioner to Secretary of State for External Affairs*

TELEGRAM 9

London, January 31, 1930

SECRET AND CONFIDENTIAL. London Naval Conference. Following from Colonel Ralston for the Prime Minister. Begins. Communiqué referred to was issued by the Foreign Office, not by Japan, and spoke of meeting of "Japanese and British Commonwealth Delegations". This obviously ambiguous,

and an item in the *Times* evidently based on it mentioned "Commonwealth delegation", which prompted Free State telegram. I have not wired because of so much detail that I considered it better to wait until matters ironed out. I have kept recognition of Dominion status fully in view. Can now give summary of events and position attained which I hope will be found satisfactory. At meeting on Tuesday of all Commonwealth delegates it was forecasted that at Thursday's session a Committee would be appointed to deal with points raised by the French and Italians concerning global tonnages, categories, transfers, ratios and total level tonnages, and Prime Minister suggested that Committee might consist of two from each foreign Power, one from Great Britain and one from one of the Dominions. I asked that principle and extent of representation of the Commonwealth be not then decided but left for discussion by us and consultation if necessary with the British Prime Minister. This was agreed. Delegates of all Dominions met Wednesday morning to consider the situation and all concurred that proposals could not be accepted. Mr. Tewater, South Africa, and I, went to the Prime Minister at the request of various Dominions delegations and Prime Minister explained his difficulty, raised largely by Stimson. We then saw Stimson who thoroughly understood our position but wanted us to consider situation in the United States where World Court membership hangs in the balance, and bitter opposition in the Senate, and hostile press sure to seize an appearance of British domination to stir up public opinion and embarrass Hoover and object to Conference. We emphasized no vote but he claimed psychological effect no less damaging. As a result of our interview and after consultation between other Powers, Stimson, on Thursday morning, moved following Resolution:

Resolved that the question of method and procedure included under heading entitled 'General Questions' in the Agenda now under discussion by the Chiefs of the delegations and including particularly suggestions of French and British Governments as to limitations by global tonnage or by categories respectively and including method of transfer suggested by French Government, be referred to a Committee composed of representatives to be appointed by the delegations represented in Conference with directions to examine carefully possibilities and probable effect of said method with reference to fleets of said respective nations and to report its views thereon to the Conference through Chiefs of the respective delegations.

This seemed entirely satisfactory to us although failed to see how it overcame Stimson's difficulty. At subsequent meeting of British Commonwealth delegations the previous suggestion regarding limited membership on Committee was resumed and I had again to make our separate position clear. Both South Africa and the Irish Free State took similar ground, while New Zealand and probably India and Australia would have accepted a compromise. Finally agreed, as a way out, that there be no new Committee but that the first Committee which was already constituted and included all delegates should be the Committee to deal with the matter mentioned in Stimson Resolution. The course we propose to pursue has been stated as follows:

The position is that all the delegates are entitled, by virtue of their membership on the Committee, to attend its meetings, if they so desire. At the same time

owing to specialized nature of the subjects to be discussed, it is desirable to obviate unduly large meetings in order to expedite the business of the Conference. Hence, as a general practice, only those delegates will attend, or if they attend, take part in proceedings at any particular meetings of the Committee, who have a special interest in subjects on the Agenda for that meeting, or a special point of view to express.

Idea is that while retaining full rights to attend, probably only one or two from each of the foreign delegations will attend any one meeting and one or two from Great Britain, and delegates from one or two of the Dominions, but situation is to be perfectly flexible. Attendance is in our own hands and I regard position as satisfactory. If not there myself at any time one of our advisers will be present as an observer. In addition to the United States I have clear intimation that France is also criticizing apparent preponderance of British representation caused by membership of Dominions. Ends.

618.

*Le secrétaire d'État aux Affaires extérieures au Haut commissaire*  
*Secretary of State for External Affairs to High Commissioner*

TELEGRAM 8

Ottawa, February 1, 1930

IMMEDIATE. SECRET AND CONFIDENTIAL. London Naval Conference. Following from Prime Minister for Colonel Ralston. Begins. I am much obliged by your full and clear statement of the position which has since been supplemented by Dominions Office telegram and press despatches. Solution which has been reached appears the most satisfactory possible under the circumstances. It is essential to maintain the principle of full and equal Dominion representation in international conferences, and other governments will require to adjust their preconceptions to the new situation. The reference to the World Court situation does not appear pertinent. The objections formerly taken in the United States to separate representation of each member of British Commonwealth of Nations in League Assembly appear to have lessened as result of better understanding of Dominion position but in any case if such objections survive they will be based on composition of Court itself and League where representation of Dominions is now unquestioned and representation in Council also established. At the same time we recognize force of special considerations in present case, particularly, first, relatively minor direct interest of Dominions, second, non-participation of smaller states in Conference and third, our agreement to accept joint quota for all His Majesty's governments. Solution proposed appears to reconcile maintenance of principle with any modification of practice found expedient because of above considerations or of convenience. It would appear desirable that more than one Dominion should be represented on such Committees at least on some occasions, and of course formal and final decisions on any point could only be made by each Commonwealth delegation for itself. I am

informing Dublin of our acquiescence in proposed solution, and in reply to Dominions Office telegram of yesterday I am merely acknowledging and stating that our views on question have been communicated to you. [Ends]

619.

*Le Haut commissaire au secrétaire d'État aux Affaires extérieures*  
*High Commissioner to Secretary of State for External Affairs*

TELEGRAM 24

London, February 17, 1930

MOST SECRET AND CONFIDENTIAL. London Naval Conference. Following from Colonel Ralston for the Prime Minister. Begins. At meeting of Commonwealth delegations this morning Monday Prime Minister gave the impression that considerable difficulties had lately been created particularly by French statement and that it would be very difficult to adhere to our proposed figures *vis à vis* United States if French did not lower theirs. This, however, could possibly be accomplished as French had given figures with one eye on Italian demands for parity and another on forcing a Mediterranean political agreement. In answer to my question Prime Minister stated that this matter of Mediterranean and Locarno had previously been mentioned casually but that he intended to bring it up definitely with the French tomorrow and discuss it thoroughly. He made it clear that three conditions would be insisted on (i) All Mediterranean Powers must come in. (ii) Any Agreement must be consultative only and there could be no commitment as in Locarno Treaty. (iii) It must not result in an increase of Admiralty responsibilities in the Mediterranean.

In response to further questions from me he seemed to expect that the Dominions would be willing to accept any such Agreement affirming again that it would involve no commitments but felt that the United States would not touch it. Would welcome your views on Canada's participation in such an Agreement. For your information our idea is that if it involved no greater commitment than Four Power Pacific Pact it would be desirable to sign irrespective of the attitude of the United States in order to show our willingness to assist practically in making the Conference successful. With respect to American proposals Prime Minister declared that

(i) He thought alternative stated therein of parity ship for ship and ton for ton on a fifteen eight inch cruiser basis for each would not be accepted by the United States but was put in for political purposes.

(ii) United States demands for new Rodney were fading.

(iii) United States would not accept a maximum of less than 10,000 tons for six inch cruisers.

Wilford, New Zealand, made statement on Japanese proposal in which he affirmed that New Zealand views with apprehension Japanese expansion southward, while Fenton for Australia stated opposite view that his country had no fear of Japanese aggression and thought that Agreement with her not difficult. United States and Japan conferring today for the first time and



British Prime Minister asked to be present. As various delegations come to grips with concrete problems general atmosphere naturally more apprehensive but Prime Minister this morning expressed himself still confident that necessary mark time period would be succeeded soon by a definite advance with eventual successful outcome. Ends.

620.

*Le secrétaire d'État aux Affaires extérieures au Haut commissaire*  
*Secretary of State for External Affairs to High Commissioner*

TELEGRAM 21

Ottawa, February 21, 1930

SECRET AND CONFIDENTIAL. London Naval Conference. Following from Prime Minister for Colonel Ralston. Begins. Your telegram No. 24 received. As to proposed agreement, I concur in desirability of showing our willingness to assist practically in making Conference successful but am not certain from evidence available that a case has yet been established for such agreement or for our participation in any Mediterranean Pact. Agreement might be desirable, (1) if necessary to save Conference, (2) if Conference in other respects is likely to achieve sufficient reductions or other genuine results to make it worth saving, and (3) if it is clear that France is not exaggerating naval needs merely to force political agreement. The only purpose of such a pact from the French standpoint would appear to be either to induce the signatories who are already members of the League to accept obligations greater than those involved in the Covenant or to induce the United States which was a party to the Quadruple Pacific Pact to accept obligations in the Mediterranean. If Ramsay MacDonald's statements imply that the pact would involve no commitments whatever beyond those of the Covenant, and that the United States is not likely to sign, the practical and ostensible grounds for the pact disappear, and it appears up to its advocates to furnish more explicit reasons. I shall keep an open mind until receiving further particulars as to form of proposed agreement, whether it involves any commitments beyond those of Covenant, how the procedure under the pact in the event of Mediterranean outbreak would be fitted into or related to procedure to be adopted in similar eventuality by the members of the League and what reasons are advanced in its support, together with your own views. Ends.

621.

*Le secrétaire, Haut commissariat, au secrétaire d'État*  
*aux Affaires extérieures*  
*Secretary, Office of High Commissioner, to Secretary of State*  
*for External Affairs*

TELEGRAM 50

London, March 14, 1930

PRIVATE AND CONFIDENTIAL. Following from Colonel Ralston for the Prime Minister. Begins. In proposed form of table which will appear at the



back of any Agreement, showing for instance distribution of global tonnage, lists of special vessels and other particulars, names of Powers, will appear at the top of the respective vertical columns as follows: British Empire, United States, Japan, France and Italy.

Do you see any objection to this form. We have considered and after studying Report of Imperial Conference of 1926, which speaks of Dominions as autonomous communities "within the British Empire" and considering that the term "British Empire" is most frequently used therein, we think that this probably most appropriate and all-embracing term which could be used. I have considered "Nations of the British Empire" but that hardly sufficient because it excludes in view Colonies, Protectorates, *et cetera* and term is perhaps unnecessarily obtrusive where we have full status as members of the Conference and preserve our individuality by signing separately. Using word "Commonwealth" does not seem to be an improvement, first, because it does not include Colonies *et cetera* and, secondly, because it also connotes an entity, and the only purpose of changing designation would be to carry forward into form and schedule an indication of collective rather than corporate nature of the British Empire. Would appreciate your views reasonably early. Ends.

622.

*Le secrétaire d'État aux Affaires extérieures au secrétaire,  
Haut commissariat*  
*Secretary of State for External Affairs to Secretary,  
Office of High Commissioner*

TELEGRAM 39

Ottawa, March 22, 1930

Following from Prime Minister for Colonel Ralston. Begins. While current reports of probable breakdown of Conference are doubtless exaggerated I think that if it is not found possible to reach satisfactory Agreement with France and Italy, it would be calamitous if Conference broke up without Agreement at least between British Empire and United States and if possible Japan. We understand this is your attitude as well as that of British Government but in view of Canada's special interest in this phase of question we believe that if necessity arises you should emphasize this consideration. Ends.

623.

*Le secrétaire d'État aux Affaires extérieures au secrétaire,  
Haut commissariat*  
*Secretary of State for External Affairs to Secretary, Office  
of High Commissioner*

TELEGRAM 40

Ottawa, March 24, 1930

Following from Prime Minister for Colonel Ralston. Begins. Your telegram No. 50. As to form of Agreement the essential point appears to be that the

several members of the Commonwealth should be separately indicated as parties to the Agreement,—that is, if the Agreement is between heads of States the parties should be designated as “His Majesty for the United Kingdom”, “His Majesty for Dominion of Canada”, etc., while if it takes the form of an Agreement between Governments, the phrase should be “the United Kingdom”, “the Dominion of Canada”, etc. It is desirable to avoid the use in this connection of the term “British Empire” which was never used in treaties before Versailles and was considered by 1926 Conference to be confusing. The tabular appendix will be of less importance. The choice would seem to fall between “British Empire” and “British Commonwealth of Nations”. While there is some uncertainty in the usage, our own view is decidedly that the term “British Commonwealth of Nations” is as wide as the term “British Empire”, the one being primarily a political and the other primarily a geographical term. We do not agree with view that word “Commonwealth”, etc. does not include colonies, etc. They are in our view a part of the nation that controls them and whose parliament is responsible for them; they are not a part of any one of the other nations of the Commonwealth. For example India, the British West Indies, etc. are a part of the Empire or Commonwealth embraced under that part of the Empire or Commonwealth whose parliament and government controls their affairs, that is, Great Britain—not Canada. Similarly with Papua which is under Australia, not Great Britain or Canada. In the 1926 definition, the term “British Commonwealth of Nations” was used to cover all the realms of His Majesty, it being well understood that each of several members of the Commonwealth had a number of subordinate parts attached to it. We would prefer term “British Commonwealth of Nations” as emphasizing more definitely the collective rather than the corporate character of the relationship, as you put it. Please inform me however if there is a general preference for the term “British Empire.” Ends.

624.

*Le secrétaire d'État aux Affaires extérieures au secrétaire,  
Haut commissariat*

*Secretary of State for External Affairs to Secretary, Office  
of High Commissioner*

TELEGRAM 47

Ottawa, March 31, 1930

Following from Prime Minister for Colonel Ralston. Begins. Your telegrams March 30. Agree that it is advisable to have someone of Privy Council rank heading delegation and am therefore requesting Roy to act as alternate delegate and to arrive London Thursday if possible for Friday plenary session. If for any reason developments in next few days make it imperative that you should delay return somewhat longer you can arrange with Roy. [Ends]

625.

*Le secrétaire, Haut commissariat, au secrétaire d'État  
aux Affaires extérieures*

*Secretary, Office of High Commissioner, to Secretary of State  
for External Affairs*

TELEGRAM 64

London, March 31, 1930

PRIVATE AND CONFIDENTIAL. Following from Colonel Ralston for the Prime Minister. Begins. Discussions still proceeding regarding formula to satisfy French. Talk with Legal Adviser of the Foreign Office this morning, Monday, indicates some progress. Not very sanguine of success but think should be considering our attitude in case something definite emerges. MacDonald's attitude is first, United Kingdom will to do all possible to make machinery for keeping peace as effective as possible and prepared to recommend that the Dominions and India to join them in this, that is to say, to safeguard the peace by making war more difficult; secondly, if war should break out prepared to honour all obligations already undertaken whether wisely or unwisely but, thirdly, on no account undertake any new military obligations. General lines which Experts are working at is to put in writing Conference members' interpretation of Article XVI as explained by Annexe F of Locarno Protocol. The difficulty now presenting itself is that French want to assume that Covenant will be eventually amended so as to include all wars and they want our text of interpretation worded on that basis. Difficult comment intelligently until exact text submitted but think might consider accession to interpretative clause similar to Annexe F calling attention to our resolution which reserves to us right of determining extent of military assistance; regarding other points hardly see how could agree to interpretation of hypothetical article especially as have grave doubts as to advisability of attempting to put Covenant behind Kellogg Pact. [Ends]

626.

*Le secrétaire d'État aux Affaires extérieures au secrétaire,  
Haut commissariat*

*Secretary of State for External Affairs to Secretary, Office  
of High Commissioner*

TELEGRAM 48

Ottawa, April 1, 1930

PRIVATE AND CONFIDENTIAL. Following from Prime Minister for Colonel Ralston. Begins. Your telegram No. 64 of 31st March regarding security formula. Appreciate your analysis of position so far as it has taken definite shape. MacDonald's attitude as you state it appears on the whole satisfactory though there is some ambiguity in first point which might be interpreted as involving undertaking to make war upon a country which has broken the

peace rather than placing emphasis on efforts to prevent outbreak of war. Second point is sound but question of what its obligations are is a matter for each country to determine in good faith. Language of first clause indicates danger of general statements which are not reduced to definite proposals.

As to proposed formula we share your doubts as to advisability of agreeing to interpretation of a hypothetical article. In first place the policy of putting teeth into the Covenant and developing the League into an alliance for making war or economic blockade against a country declared to be the aggressor appears to turn the emphasis away from the more promising line of League activity, namely, preventive action to settle disputes and prevent war. Second, there seems still less ground for the members of the League endeavouring to put teeth into the Kellogg Pact when chief promoter of the Pact declines to assume any collective responsibility whatever and takes ground that signatories to Pact undertook to abstain from war themselves but undertook no obligation to punish other signatories if they violate their promise. Third, even if Covenant were to be so amended or interpreted, it is not clear that half a dozen members of the League which happen to be represented in London should assume task.

If any interpretation is to be offered that contained in Annex F to which you refer does not appear to be in itself open to objection. It must, however, be understood that it is for each member of the League to interpret its own obligations and that any proposal for decision by an outside body which would compel Canada to undertake military or economic blockade operations on whatever scale without specific decision by its own Government and Parliament would be contrary to the whole policy followed by Canada since founding of the League.

We should not like to see Canada manoeuvred into position where it could be alleged that by holding out she was imperilling conclusion of agreement but from data thus far available do not anticipate that such a position is likely to arise. Please advise when any more definite proposals are made and as to your further views. Ends.

627.

*Le secrétaire, Haut commissariat, au secrétaire d'État  
aux Affaires extérieures*

*Secretary, Office of High Commissioner, to Secretary of State  
for External Affairs*

TELEGRAM 66

London, April 2, 1930

PRIVATE AND CONFIDENTIAL. Following from Colonel Ralston for the Prime Minister. Begins. Statement of MacDonald said that attitude was only summary of his verbal expressions in consultation with Heads of Dominions delegations and I agree that was both ambiguous and general. Yesterday morning Tuesday we were given outline of draft formula and portion read to



us. I suggested desirable to have copies and mentioned this again at further meeting yesterday afternoon Tuesday. No copies received as yet but Minutes of yesterday morning Tuesday's meeting contains extracts read. I have reminded Prime Minister and will probably have full copies today Wednesday. First portion of extract is as follows:

At present the obligations of the Members of the League under Article XVI come into force in case of violation of undertakings of Articles XII, XIII and XV of the Covenant. As they now stand these Articles do not exclude possibility of recourse to force in cases where it is forbidden by the Pact of Paris. Amendments are now under consideration for the purpose of this situation. The Signatory Governments undertake to do everything in their power to ensure that these amendments shall be incorporated in the Covenant with the least possible delay.

Last paragraph of draft statement is as follows:

In making recommendations under paragraph 2 of Article XVI as to effective Military, Naval or Air Forces, which in accordance with the terms of the Covenant itself the Members of the League shall severally contribute to armed forces to be used to protect Covenant of the League, the Council will necessarily take into account military situation and geographical position of States concerned. Recognising that Members of the League are bound to co-operate loyally and effectively in resistance to any acts of aggression in violation of the Covenant, the Signatory Governments declare their intention of conforming without delay to recommendations which the Council may make under this paragraph.

Our views were not asked so refraining from anything but general expression until matter more formally put before us. My impression is that first portion much more serious than second paragraph, and I pointed out to MacDonald yesterday afternoon Tuesday that, it involved serious additional military commitments since it applied to wars not previously covered by the Covenant. He did not think so because his Foreign Office advised that Great Britain already committed by having introduced resolution for amendment of Covenant at Assembly last September. Anyway this would be additional obligation for Canada as it definitely commits any Signatory Nation to back up the Kellogg Pact with sanction of Covenant unless, of course, the Signatory Nations sign with tongues in their cheeks, knowing in advance that efforts to have amendment adopted will not be successful. I think it involves necessity of definite determination of policy on point as to whether we favour Pact being put into Covenant or even if we do not favour it whether we are willing to pay that price in order to promote Agreement. I expressed yesterday Tuesday general point of view that Kellogg Pact will be weakened rather than strengthened in the eyes of the world by an attempt to put material sanctions behind its alleged moral effectiveness. The British Government is evidently definitely committed by its action last September. Vanier tells me he recollects nothing in September to indicate any expression on part of Canada pro or con on principle involved, and you will know whether instructions went to Riddell at the time of Cecil Committee meeting last month. On second paragraph the effect is to make military and geographical conditions a matter of consideration and decision preliminary to the Council's recommendations



and to preclude any signatory Nation invoking such conditions as justification for declining to accede to the recommendations. As I intimated before, my impression is that there is no serious objection to this, having regard to resolution of 1923 sponsored by Gouin and Graham. As to what consideration in tonnage will be given by France for a satisfactory Pact, I think we would all be prepared to go a long way in trying to find way round objection on national grounds if we could be sure that it was in the interest of world peace to attempt to put teeth into Pact. British Government, however, has indicated by action in September its opinion that it is desirable and had made it harder for us to decline on general principles which involved criticism of their judgment. Anticipate that at least some of the Dominions will be as hesitant about this matter as we are. Your point about few members amending Covenant is of course met by form suggested which is only an undertaking to advocate and promote action by Assembly. I will be glad to have your further observations so that I can discuss with Roy before I leave on Friday. Roy arriving Thursday night. Ends.

628.

*Le secrétaire, Haut commissariat, au secrétaire d'État  
aux Affaires extérieures*

*Secretary, Office of High Commissioner, to Secretary of State  
for External Affairs*

TELEGRAM 67

London, April 2, 1930

PRIVATE AND CONFIDENTIAL. Following from Colonel Ralston for the Prime Minister. Begins. They are hoping here that discussion and consideration will proceed not along lines of putting Pact into Covenant but rather without reference to Pact at all, simply closing gap or covering limited possibility of an emergency Army and Navy after preventive machinery of the League has been exhausted. I think you have copies of the amendment. In other words hope is that existence of the Pact will be made reassuring circumstance to minimize extent of additional obligations created by the amendment rather than making the existence of the Pact an objection to signing. Am sending this just as leaving for Liverpool and for consideration in connection with telegram sent earlier today Wednesday. We are studying proposed amendment here as well.

Additional from Commodore Hose after the departure of Colonel Ralston.

Have been informed that at Heads of Delegation meeting this afternoon Wednesday, which Colonel Ralston was unable to attend, it was decided to postpone Plenary Session indefinitely in view of satisfactory agreement having been reached between the United Kingdom, America and Japan, while negotiations between the United Kingdom, France and Italy are still in delicate condition. Ends.

629.

*Le secrétaire d'État aux Affaires extérieures au secrétaire,  
Haut commissariat*

*Secretary of State for External Affairs to Secretary,  
Office of High Commissioner*

TELEGRAM 50

Ottawa, April 4, 1930

IMMEDIATE. PRIVATE AND CONFIDENTIAL. Following from Prime Minister for Colonel Ralston. Begins. In view of difficult situation referred to in your recent telegrams, to which reply will be made after Council today, I think it would be advisable to have advantage of your presence in London at present juncture and would suggest postponing sailing until next week. Ends.

630.

*Le secrétaire d'État aux Affaires extérieures au secrétaire,  
Haut commissariat*

*Secretary of State for External Affairs to Secretary, Office  
of High Commissioner*

TELEGRAM 51

Ottawa, April 4, 1930

IMMEDIATE. PRIVATE AND CONFIDENTIAL. Following from Prime Minister for Colonel Ralston. Begins. Your telegrams No. 66 and 67 indicate difficult situation. Your analysis and comments much appreciated. Proposals you report appear open to serious objection. As to first paragraph, pledging acceptance of amendments to Covenant in order to harmonize with Pact, objection is felt in principle to proposal that those signatories of Pact who happen also to be signatories of Covenant should undertake to act as policemen for Pact when its chief framer stands outside, and further to adoption of this course being determined by a few League members in London rather than by all members at Geneva. There are also difficulties in detail in the amendments proposed in report of jurists' committee, which reached Ottawa last week, and which differs from British amendments suggested in September, both sets of amendments apparently still holding the field. It is possible that full consideration in September might warrant acceptance after comparison and revision, but decision at present appears premature. Statement in your telegram No. 67 that it is hoped discussion will proceed not along lines of putting Pact into Covenant but rather without reference to Pact at all emphasizes extraordinary vagueness of proposals. The purpose of amendments was stated to be precisely to relate Covenant to Pact and every recommendation of jurists' report is based on this understanding. If now the

whole basis of proposed amendments is to be changed, it is clear new situation arises and undesirability of endorsing at this stage either of two sets of present amendments or others adapted to changed basis is apparent.

Second paragraph raises at least equal difficulties. It apparently involves empowering Council not merely to recommend what military action should be taken by each member of League, but to determine whether a violation of Covenant has arisen and who is the aggressor. Please advise if this is held to be correct interpretation. If so, it would be contrary to resolution of Second Assembly declaring "it is the duty of each member of the League to decide for itself whether a breach of the Covenant has been committed", and contrary also to unvarying Canadian position evidenced in discussion and motion House of Commons 1919 against decision by Council, Doherty proposals Geneva 1920 and 1921 for abolition of Article 10, Lapointe amendment in 1922 as follows:

The opinion given by the Council in such cases shall be regarded as a matter of the highest importance, and shall be taken into consideration by all the members of the League, which shall use their utmost endeavours to conform to the conclusions of the Council; but no member shall be under the obligation to engage in any act of war without the consent of its parliament, legislature or other representative body.

and attitude taken with reference to Chanak, Locarno and Protocol of Geneva to the effect that decision of Canadian participation in war can be made by Canadian Parliament alone.

The two paragraphs taken together increase possibility of Canada being involved by outside decision in a wider range of wars. It is essential to remember that proposed obligation has wholly different character in case of Britain and other permanent or temporary members of Council and in case of Canada and other future non-members.

Present proposal differs essentially from Annex F to Locarno Agreement, which we would be prepared to endorse if necessary as it does not give Council power of determining aggressor.

At same time we recognize difficulties which would arise from taking different attitude from that of British representatives, and wish therefore to explore situation further. Please advise as to attitude if known of other Dominions and of Japan and Italy; as to likelihood of Great Britain signing these proposals, which presumably will be embodied in separate document from main convention, if Dominions do not sign; as to whether it is proposed to make security agreement without knowing what reduction of its bargaining programme France will make; as to prospects of Italy accepting lower tonnage than France, and as to prospects of finding security formula on basis of Locarno Annex F or by consultative pact definitely articulated to League Covenant or preferably by Franco-Italian commission on lines of our International Joint Commission which Briand knows and approves. There must be some way out. [Ends]

631.

*Le secrétaire, Haut commissariat, au secrétaire d'État  
aux Affaires extérieures*

*Secretary, Office of High Commissioner, to Secretary of State  
for External Affairs*

TELEGRAM 74

London, April 4, 1930

PRIVATE AND CONFIDENTIAL. Following from Colonel Raiston for the Prime Minister. Begins. In view of your telegram I have cancelled sailing until April 10. Discussion still proceeding as to text. Hope to have something to submit for consideration of cabinet here Monday morning. I have made it clear that we must have opportunity for examining and considering actual form before any commitment even to principle. They would like to have opportunity to examine in cabinet here before submitting to us as terms of formula changing from time to time in the course of conversations. Foreign Office evidently pressing that Government here has gone too far at Geneva in support of principle to recede now. Claimed that such opposition as has developed here is not consistent with attitude of public up to now which has appeared all along to tacitly accept principle of action at Geneva last September. It is hoped to have some information first of the week as to consideration which France prepared to make in return for satisfactory agreement. MacDonald evidently troubled with argument that agreement in advance by a few signatories to support amendment may be criticized as precluding benefit of discussion at Assembly where it might be claimed that members should have preserved open mind. Ends.

632.

*Le secrétaire, Haut commissariat, au secrétaire d'État  
aux Affaires extérieures*

*Secretary, Office of High Commissioner, to Secretary of State  
for External Affairs*

TELEGRAM [75]

London, April 6, 1930

PRIVATE AND CONFIDENTIAL. Following from Colonel Ralston for the Prime Minister. Begins. In reply to your telegram No. 51, Parts 1 and 2, Roy and I, after consultation with advisers, are forwarding following comments for your consideration in the hope of assisting in arriving at understanding of problems and various factors involved. It is not possible to come to any final conclusions as the terms of proposed formulae are still a matter of discussion as indicated in my No. 74, which I do not think you had when wiring No. 51. Regarding your first point, is this not answered by the fact that apparently the principle of making the terms of the Covenant harmonize with the Pact was (approved?) by all Members by Declaration, Paragraph 3 of Resolution of the Assembly 24th September last, and this is restated in third paragraph of Report of Jurists' Committee dated 6th March, 1930, which you state you



received last week? Regarding form of amendment, agree that there is difficulty in undertaking to support amendment, the exact letter of which is not definitely settled, but assuming that question of principle agreed to, is there much difficulty in undertaking to support such amendments as will carry out a specified object? It then becomes matter of drafting and a party still has the right to refuse to support an amendment which he asserts does not carry out that object. Regarding last paragraph of your Part 1, I did not intend to convey impression that basis of proposed amendment was changed, only thought that it might clarify consideration by thinking of amendment as being to prohibit war now impliedly permitted by the Covenant, leaving the Pact out of consideration. Can it not be said that reference to the Pact is simply another and a convenient method of indicating maximum scope of new prohibitory clauses of the Covenant? Regarding Part 2, at present finding it hard to agree with your interpretation of the second paragraph of the draft formulae quoted in my telegram No. 66. Difficult to see how this paragraph adds to Council's right to determine aggressor. The paragraph in terms refers to recommendation of Council "under paragraph 2 of Article 16" and those Powers are only to recommend degree of Military, Naval and Air resistance—not to determine who is aggressor. I have not enquired regarding opinion of others as to this interpretation because as intimated formula is still in fluid state and having reserved our rights of consideration and examination, think that others would prefer to discuss exact terms after they have been settled. Think, however, that second paragraph of draft formula appears to be in almost direct conflict with paragraphs 2 and 3 of Gouin-Graham Resolution of 1923, which apparently was intended to reserve to signatories right of determining degree of material assistance to be provided while treating recommendations of the Council in that regard as of highest importance. This would indicate desirability of referring in some way to this Resolution if formulae in any such terms as suggested were to be finally considered. Does not this Resolution really supersede or at least include principle of Doherty and Lapointe proposals you mention? We ask because you do not mention the 1923 Resolution. Dealing further with your telegram, agree that first paragraph of draft formulae does increase in theory at least the possibility of greater number of emergencies in which Canada might be obliged under the Covenant to contribute because obligations of Article 16 will, if appropriate amendments are adopted, be liable to be invoked to prohibit all wars instead of only those within three months' period or in defiance of decision regarding an Arbitral Tribunal. Doubt, however, if provisions of either paragraphs increase possibility of Canada being "involved by outside decision" in a wider range of war. Do not see provision which permits outside decision to settle fundamental fact of unlawful aggression without which our obligations do not arise. Outside decision determines degree of our contribution after basic situation has arisen. We appreciate favourable position in which a Member of Council stands and assumed Resolution of 1923 was with idea of giving non-Members at least an equal position. I agree that draft proposal differs essentially from Annex F to Locarno. Regarding your



questions, most of them have been asked here already and you may find it difficult to understand that answers have been exceedingly hazy. The Foreign Office considers that the first job is to find formula satisfactory to the French. Whether any useful or desirable results will follow is not known and First Lord himself has doubts. Discussion of text of formula still proceeding and until we and the other delegations have definite wording before us no one can express opinion with any idea of finality. Attitude of representatives of New Zealand, South Africa and Ireland, Friday, quite definitely adverse to the proposals in the present draft form, but do not think that they had in mind apparent settlement of principle at Geneva last September. Regarding Great Britain signing without Dominions I can only say that if it means anything substantial towards final agreement think Foreign Office will press strenuously that Great Britain's leadership in advocacy of amendment at Geneva last September makes it impossible to refuse to pledge support. Do not think any idea of actually giving security agreement without knowing what tonnage reductions will be conceded. Finding acceptable form is regarded as first step in process of bargain for security of tonnage and French position is evidently that security has to be defined before tonnage concession can be discussed, although from what heard yesterday Saturday would not be surprised if Briand by some process of reasoning would try to assert theoretically at least that matter of formula entirely separate from tonnage. Italy is asserting that conference is practically finished so far as she is concerned, but Foreign Office still refuses to give up trying to find some solution based on status quo between Italy and France for a short period agreement without prejudice to rival claims regarding parity principle of which Italy will not relinquish. Negotiations with France and Italy definitely at a standstill and whole of attention turns to this question of French formula, negotiations for which Foreign Office has been conducting, although MacDonald has now come into it himself feeling possibly that Foreign Office not too cautious about increasing commitments. Think that neither Locarno Annex nor consultative pact acceptable to France. Present situation does not seem to permit of any hope of successfully promoting Arbitral Tribunal for France and Italy. Vital issue between these two is parity. Saw Grandi with Roy last night Saturday. He says both countries put up their flags and neither can afford to lower. Our summary is, first, regarding first paragraph of draft formula, my telegram No. 66; there seemed two outstanding objections. No. 1, damage which might be done to Pact by action which would insinuate that the Pact could not stand by itself and needed brace up to be effective. No. 2, mistake for few nations to bind themselves to alter Covenant before they have heard their many other fellow members who are not present here. Are not both these objections answered by the fact that apparently principle of amendment accepted by all League Members at Geneva last September?<sup>1</sup> Does not this equally preclude

<sup>1</sup> Il s'agit d'une résolution parrainée par la Grande Bretagne à l'Assemblée de 1929 à l'effet que les Articles XII et XV du Pacte de la SDN soient examinés de nouveau à la lumière du Pacte Kellogg.

<sup>1</sup> This reference is to a resolution sponsored by Britain at the 1929 Assembly providing for a re-examination of Articles XII and XV of the Covenant in light of the Kellogg Pact.

raising of your point about a certain non-League Member declining to provide material for sanctions?; dealing further with this point, while it may be ground for criticism of non-League Members, is it any logical reason by itself for League Members not including if they want to in Covenant wars which happen to be also covered by the Pact? Have to remember even present Covenant covers wars which are covered by the Pact and it is Covenant which it is proposed to amend not Pact. If Geneva proceedings have not committed us to amendment, then have to consider national difficulties which may result from argument which can be made that number of possible emergencies in which we may be called on has been increased, while against that is consideration that amendment makes war less likely by repealing legislation of war and definitely declaring it out of fashion. Certainly any one who compares amendment with original Covenant will get impression that amendments express a distinct advance along lines of abolition of war. The man who will object is he who will visualize some signatory breaking its word with resultant necessity for others to make good their obligation to go to war to force violator to keep peace. Regarding last paragraph of draft formula have suggested above that might be rendered fairly acceptable by introducing a reference to 1923 Resolution. End of summary. Stimson has intimated to MacDonald that time has come now for Britain to decide whether she will do something to meet France, and that he, Stimson, and others entitled to know very soon, as he feels that he has made all contribution he can and if Britain can not produce arrangement which will bring together European groups, Conference might as well close at once with Three Power Pact between so-called High Seas group. Ends.

633.

*Le secrétaire, Haut commissariat, au secrétaire d'État  
aux Affaires extérieures*

*Secretary, Office of High Commissioner, to Secretary of State  
for External Affairs*

TELEGRAM 76

London, April 7, 1930

PRIVATE AND CONFIDENTIAL. Following from Colonel Ralston for the Prime Minister. Begins. Thanks for wire. Assure you willingness to help, anxiety was to get back in time to visit Constituency at Halifax re Nova Scotian matters and have opportunity of meeting with Colleagues with reference to Budget and other matters before reassembling 24th. I am trying to make sailing arrangements for Friday 11th although rumour Plenary Session that date makes definite plans still impossible. Feel that now really coming to grips and if I can have your views on principles involved even in absence of exact text of formula can help Roy to make our position clear and I am sure he could carry on entirely acceptably. Last sentence of your telegram raises principal point and that is whether an Agreement in sense of two paragraphs quoted in my telegram No. 66 constitutes such an increase or change in

European commitments as to be unacceptable to us. *Daily Mail*, Saturday, intimated that my remaining was due to anxiety of Canadian Government regarding attitude of British Government. Quotation in Hearst papers *Times* this morning, Monday, states that Dominions have "called a halt on MacDonald's attempt to involve British Empire further in military guarantees for France". Garvin in *Observer* yesterday, Sunday, asserted supremacy of Parliaments in connection with obligations under the Covenant. Roy and I attended meeting of Heads of Commonwealth delegations this morning, Monday. Feeling that MacDonald's laudable desire to bring Agreement leads him to accept idea apparently given him by Foreign Office that negotiations involve no increased military commitments. Appears to lack exact appreciation of effect of present Covenant and of verbiage of formula being discussed due to his burden of varied responsibilities and to his enthusiasm and possibly to Foreign Office not taking care to fully advise him. He read us extract from draft formula handed to French Saturday and which Briand has taken to France and tells us that Briand was asked to bring back with him French Government's comments and their ideas regarding any tonnage adjustments in case satisfactory formulae were evolved. Foreign Office expressed willingness that we have copies on the understanding that not to be telegraphed yet because of fluid position and further that it be understood that it had not been before either British or French Governments. We did not take copies. Gathered that formula under consideration still embodies some commitments to support Covenant amendment and reviewed our previous discussion, and we pointed out misapprehension he seemed to have about power of Council to decide that Covenant had been broken. We suggested should have a comprehensive talk over this whole Covenant amendment phase as it affects us all and necessary that everybody get clear idea regarding present and proposed position which can be discussed in principle even without settled text. He agreed, and meeting fixed for tomorrow morning, Tuesday. In course of discussion this morning, Monday, MacDonald remarked that we had all been parties to initiating amendment at Geneva. It would be most helpful to have your views on my telegram of 6th April which should be numbered 75. Ends.

634.

*Le secrétaire, Haut commissariat, au secrétaire d'État  
aux Affaires extérieures*

*Secretary, Office of High Commissioner, to Secretary of State  
for External Affairs*

TELEGRAM 78

London, April 8, 1930

PRIVATE AND CONFIDENTIAL. Following from Colonel Ralston for the Prime Minister. Begins. Principal development at meeting this morning Tuesday is that formula which MacDonald will discuss with Briand tonight Tuesday will contain reference to necessity to sanction by Parliament on both points. It is also to be understood that MacDonald is not speaking for the

Dominions. It is possible that first point will prove unacceptable and that this will close exploratory conversations regarding security formula. If, however, this discussion proves productive of possibilities for mutual accommodation, will send you draft formula with any further necessary comments. From above you will gather that meeting was on the whole satisfactory. Ends.

635.

*Le secrétaire d'État aux Affaires extérieures au secrétaire,  
Haut commissariat*

*Secretary of State for External Affairs to Secretary, Office  
of High Commissioner*

TELEGRAM 53

Ottawa, April 8, 1930

IMMEDIATE. PRIVATE AND CONFIDENTIAL. Following from the Prime Minister for Colonel Ralston. Begins. Your telegrams No. 75 and No. 76 very helpful and have cleared up a number of points previously in doubt. It is difficult to express definite opinion without having exact wording of proposed formula. In brief we have in mind Resolution of House of Commons necessitating approval by Parliament of all military commitments and therefore feel we cannot commit Canada to increased responsibilities or to militarizing of Covenant if this should clearly be shown to be involved. At same time we do not wish to give anyone opportunity of throwing responsibility on Canada for possible failure due to other causes.

More specifically our difficulties on present information may be summarized:

First, objection to dealing with amendment of Covenant in London rather than Geneva, an objection which might be overcome if necessity established.

Second, objection to militarization of Covenant, to undue emphasis on military means of effective security and on punishment rather than prevention as League policy.

Third, as to first set of proposals in your telegram No. 66; objection is taken to association of Covenant with Pact as its sanction. We agree that proposed amendments so far as involving promise on part of each State to make complete renunciation of war are desirable but in fact this renunciation has already been made by Pact and only purpose of including it in Covenant whether avowed or not must be to add to this individual renunciation the provisions of the Covenant for joint enforcement. However, this objection also might be overcome, particularly in view of measure of approval of principle given at Geneva in September.

Fourth, objection arises because of their bearing on second set of proposals, since increase in number of wars which may involve breaking of Covenant becomes particularly serious if right of Canada to decide whether violation has actually occurred and what action she should take in such wars is transferred to Council.



Fifth, the main difficulty arises from the second set of proposals in your telegram No. 66 which appear to involve right of Council to determine aggressor as well as to determine form and extent of military action to be taken. If as you think it is doubtful whether Council is given power to determine aggressor, explicit statement to that effect should be secured. Resolution of 1923 regarding Article 10 did not cover whole field. It was watered down from original Canadian proposal made in that year and Lapointe proposals of previous year, and was recognized as leaving undetermined the vital question of the liberty of each State to judge for itself whether the case contemplated by Article 10 had actually arisen. If, therefore, a reservation or statement were to be made it would be necessary to include in addition to reference to 1923 Resolution a statement covering duty of each Member of League to decide for itself whether a breach of the Covenant had been committed, as stated for example in these words in paragraph 4 of Resolution of Second Assembly regarding Article 16.

Sixth, a good three-power agreement appears to be preferable to a dubious five-power or apparently only four-power agreement.

In conclusion I repeat difficulty of definite conclusion before exact proposals available and therefore desire to reserve judgment until further word. Ends.

636.

*Le secrétaire, Haut commissariat, au secrétaire d'État  
aux Affaires extérieures*

*Secretary, Office of High Commissioner, to Secretary of State  
for External Affairs*

TELEGRAM 82

London, April 10, 1930

PRIVATE AND CONFIDENTIAL. Following from Colonel Ralston for the Prime Minister. Begins. Three-power agreement settled all except drafting. Last details cleared up this morning Thursday. Hope that France and Italy will join in agreements regarding battleships, submarines and possibly some other matters. Hope also that there will be clause providing that Conference be simply adjourned and that conversations be continued between France and Italy. American and Japanese delegates to return home leaving respective Ambassadors to represent. Security formula for France dropped. Hope for some sort of understanding from France and Italy whereby pending discussion they will so regulate their programme as not to disturb settled programme arrived at between the other three powers. Meeting of Heads of Delegations tomorrow morning Friday which Roy and I will attend. Sailing S.S. *Berlin* for Halifax tomorrow afternoon Friday. Ends.



637.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 50

Ottawa, April 10, 1930

With reference to Naval Conference, it is desired that His Majesty may be humbly moved to issue full powers to the Honourable Philippe Roy, Canadian Minister in Paris, for the negotiation and signature, on behalf of Canada, of any agreements that may be concluded at the Conference.

638.

*Le secrétaire, Haut commissariat, au secrétaire d'État  
aux Affaires extérieures*

*Secretary, Office of High Commissioner, to Secretary of State  
for External Affairs*

TELEGRAM 88

London, April 15, 1930

PRIVATE. CONFIDENTIAL. Following from Mr. Roy for the Prime Minister. Begins. Heads of British Commonwealth delegations met this afternoon Tuesday, with Mr. Alexander in the chair, to consider how in wording of treaty the collective total of naval forces of the Commonwealth could be indicated as, vis à vis, the naval forces of the other Powers, while at the same time preserving identity of separate Dominion navies. It was agreed that where total figures were referred to they should be referred to under the heading of "British Commonwealth of Nations", and where disposal of individual units was being dealt with, identity of fleet to which specific units belonged should be definitely indicated.

To give an example, Article 2 of the proposed draft treaty reads as follows:

The United States, the British Commonwealth of Nations and Japan shall dispose of the following capital ships as provided in this Article:

United States—*Florida, Utah, Arkansas or Wyoming;*

British Commonwealth of Nations—*Benbow, Iron Duke, Marlborough, Emperor of India, Tiger;*

Japan—*Hijei*

As none of the above ships mentioned under "British Commonwealth of Nations" belong to a Dominion, it is proposed to name these ships and to place words "United Kingdom" against them. This agreement is being submitted to the Prime Minister this evening Tuesday. New Zealand objected to differentiation of specific units but was content to let agreement go through, the objection being noted, and further the agreement is subject to there being no objection raised by the other Powers. In view of the indication given by this form of words in treaty of the total collective forces, and also of an

individual entity of the respective Dominion navies, it was agreed that no declaration would be made at plenary Conference on the subject of a single quota. South Africa and the Irish Free State also feel, on their behalf, that such declaration not now called for. Ends.

639.

*Le Délégué canadien au ministère de la Défense nationale*  
*Canadian Delegate to Department of National Defence*

TELEGRAM

London, April 17, 1930

Following Prime Minister from Roy. Question raised today by Irish Free State and South African Governments who considered that the expression British Commonwealth of Nations where used in connection with definite units was undesirable even if qualified by designation of the Commonwealth state to whose navy such units were attached on account of the implication of Commonwealth responsibility for carrying out the provision dealing with the disposal of such units. At British Commonwealth delegations meeting to consider this point these objections were met by deleting British Commonwealth from all articles dealing with disposal of individual units for example Article Two now reads "The United States, the United Kingdom and Japan shall dispose of the following capital ships as provided in this Article: United States—*Florida, Utah, Arkansas, or Wyoming*; United Kingdom—*Benbow, Iron Duke, Marlborough, Emperor of India, Tiger*; Japan—*Hiei*". Irish Free State suggested that "In Article One of Part One of the draft treaty and subsequent Articles where the expression High Contracting Parties (confirmations?) that expression should be deleted and the names of the contracting countries inserted in lieu thereof setting out each of the countries of the Commonwealth separately". This was not accepted as present wording is in accordance with Imperial Conference 1926. Irish Free State suggested also that expression British Commonwealth of Nations in Tables and Annexes of Treaty should be deleted. This was found impracticable as these Tables refer to the collective tonnages or numbers and require a generic heading of some kind.

640.

*Le secrétaire d'État aux Affaires extérieures*  
*au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 90

Ottawa, June 10, 1930

His Majesty's Government in the Dominion of Canada request that His Majesty may be humbly moved to ratify in respect of Canada the London Naval Treaty 1930. It would be appreciated if Instrument of Ratification in respect of Canada were sent to the Secretary in the Office of Canadian High Commissioner for deposit.

641.

*Le Conseiller au sous-secrétaire d'État aux Affaires extérieures*  
*Advisory Officer to Under-Secretary of State for External Affairs*

Geneva, October 3, 1930

Sir,

I have the honour to forward to you herewith a communication<sup>1</sup> from the Director of the Disarmament Section with regard to the Governments of Canada and Cuba retaining their membership on the Preparatory Commission for the Disarmament Conference.

I have etc.

GEORGES P. VANIER

for the Canadian Advisory Officer

642.

*Le sous-secrétaire d'État aux Affaires extérieures au Conseiller*  
*Under-Secretary of State for External Affairs to Adivsory Officer*

Ottawa, October 21, 1920

Sir,

I have the honour to refer to Colonel Vanier's letter of the 3rd October, 1930, with its enclosures concerning the Council's invitation to the Canadian Government to continue its membership of the Preparatory Commission for the Disarmament Conference and to request you to advise the Secretary-General that the Canadian Government will be pleased to accept the Council's invitation.

I have etc.

O. D. SKELTON

PARTIE 2/PART 2

RÉPARATIONS

REPARATIONS

643.

*Mémorandum du sous-secrétaire d'État au Premier ministre*  
*Memorandum from Under-Secretary of State to Prime Minister*

Ottawa, September 29, 1926

Under the provisions of the Treaty of Versailles, offices for the settlement of debts between nationals of Germany and nationals of the various Allied

<sup>1</sup> Non reproduite.

<sup>1</sup> Not printed.

Countries were authorized to be set up. They were to be called Clearing Offices. It was also provided that, so far as Canada was concerned, she might establish a Clearing Office to deal directly with Germany, or she might establish a local office which would deal with Germany through a Central Clearing Office in London. These alternatives were put before the Canadian Government in a Colonial Office telegraphic despatch, dated the 24th of March, 1920, and it was intimated therein that if Canada established a local Clearing Office "His Majesty's Government willing that Central Clearing Office establishment here should act as agent for Dominions concerned."

It was decided that a local Clearing Office should be set up, and the offer above referred to was accepted. At the outset it was expected that the balance would be in favour of Canada throughout, but a very large number of claims unknown to the Custodian's Office were immediately put forward, so that at the outset and for a considerable time thereafter the claims made by Germans were very much greater than the claims made by Canadians, and the Canadian Clearing Office became indebted on the transactions disposed of.

This situation continued down to September, 1921, when Germany defaulted in making payment of balances against her to the various Allied Powers due to the operations of the Clearing Office. The Central Clearing Office thereupon made claim that Canada was indebted to the Central Clearing Office to the extent of the debit balance above mentioned. The Canadian Custodian strenuously objected to this. Demands for payment were repeated and continued down to December, 1923, when a request by Canada was made for Canadian securities held by the English Public Trustee. This claim was refused on account of the debit balance remaining unpaid; in fact the English Public Trustee asserted that he would not hand over any Canadian securities to the Canadian Custodian or account for any cash which he had received unless the debit balance was paid in cash to the Central Clearing Office. At that time there were no means of knowing what securities or what cash was forthcoming to the Canadian Custodian. As a result, therefore, of an agreement that the debit balance, amounting to about \$1,600,000, should be paid, the English Public Trustee has paid or credited to Canada over £200,000 in cash and handed over about \$800,000 of securities.

Subsequent to this, some large claims by Canadian nationals were admitted by the German Clearing Office, and at the present time Canada, instead of being in debit in the Clearing Office, has a credit of upwards of \$4,000,000. Undoubtedly if Canada ultimately were in debit, the amount thereof should be paid, but Canada being ultimately a creditor in the Clearing Office, the payment made through the Central Clearing Office should be refunded, the Canadian Custodian having a right to the Canadian securities and cash in the hands of the English Public Trustee and being under no obligation to pay the debit balance to the Central Clearing Office.

The Clearing Office account of all the Dominions that set up Clearing Offices is in the same condition. Representations have been made by the High Commissioners of these Dominions to the British Treasury, and a demand

has been made for payment of these sums. The Chancellor of the Exchequer has considered the matter, and he refuses to concur in payment. The matter cannot be disposed of unless pressure is brought to bear upon the Home Government through the Imperial Conference.

THOMAS MULVEY

644.

*Décret du Conseil*  
*Order in Council*

P.C. 813

May 4, 1927

The Committee of the Privy Council have had before them a Report, dated 2nd May, 1927, from the Secretary of State, submitting that it was provided by the Treaty between the Allied and Associated Powers and Austria signed at St. Germain-en-Laye on September 10th, 1919, by Article 249 thereof, that the Dominion of Canada has the right to retain and liquidate all property, rights or interests belonging at the date of coming into force of the said Treaty to nationals of the former Austrian Empire; that it was further provided by Section 4 of the Annex following Article 250 of the said Treaty that all property, rights and interests of nationals of the former Austrian Empire in Canada, and the proceeds of their sale or dealings therein, may be charged by Canada in the first place with payments of amounts due in respect of claims of Canadian nationals with regard to property, rights and interests, including companies and associations in which they are interested in the former Austrian Empire, or debts owing to them by Austrian nationals;

The Minister states that in pursuance of the aforesaid provisions in the said Treaty the Custodian of Enemy Property took into his possession and liquidated certain property, rights and interests of Austrian nationals in Canada, and charged thereon certain claims of Canadian nationals, as provided for by the said Treaty; that there is a surplus of property, rights and interests of Austrian nationals in Canada, and that the Canadian Government proposes to hand over to the Austrian Government such surplus proceeds of liquidation for distribution amongst Austrian nationals whose property, rights and interests have been so liquidated, and that the Austrian Government has undertaken to distribute such surplus proceeds pro rata amongst the several nationals aforesaid.

The Minister submits that a preliminary Agreement has been entered into, in London, between the Honourable Mr. Lapointe, Minister of Justice, and Mr. George Franckenstein, Envoy Extraordinary and Minister Plenipotentiary of Austria at the Court of St. James, a copy of which is attached hereto<sup>1</sup>; that all claims of Canadians against Austrians have been satisfied; that after deducting payment of these claims there is Austrian property in Canada which on return will amount to about eighty-five or ninety per cent of the

<sup>1</sup> Non reproduite.

<sup>1</sup> Not printed.



property sequestrated; and that the Austrian Government has undertaken to issue its bonds to holders of Austrian sequestrated property for the difference between the amount repaid by Canada and the face value of the property.

The Committee, on the recommendation of the Secretary of State, advise that the Agreement attached hereto be approved.

645.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM A. 19

London, April 27, 1928

CONFIDENTIAL. Treasury have had under consideration question whether fresh arrangements may not be required in order to secure that full share of Dawes annuities allocated to the British Empire should still be received. British Empire reparation receipts are at present provided almost entirely by means of 26 per cent levy on German imports into the United Kingdom. This levy is no longer collected by the United Kingdom customs administration but is obtained by means of payments made by German exporters under the terms of Agreement of March, 1926, (*Command 2384*).

Up to the present these arrangements have enabled the whole of the British Empire share of reparations to be provided, but in consequence of increase in Dawes annuities to them of maximum in year beginning 1st September, 1928, present arrangements will no longer suffice for this purpose unless cash transfers made by Transfer Committee are considerably increased for as various parts of British Empire (unlike France and Italy) take no deliveries in kind from Germany, cash transfers are alone available to fill gap which will exist.

Treasury considers that there is good ground to hope that cash transfers may be increased to necessary extent at any rate for some little time to come, but this cannot be counted upon as a certainty and in event of any restriction it seems probable that it will be cash transfers that will be restricted, while no restriction is likely to be placed upon deliveries in kind (including payments under Reparations Recovery Act procedure) save under very exceptional circumstances. On occasion of conclusion of Agreement of March in regard to amendment method of administering Reparations Recovery Act, Transfer Committee undertook imposition restrictions would be effected in so far as might be practicable in such a manner that all deliveries in kind (including payments under Reparations Recovery Act) should receive substantially similar treatment. Accordingly in so far as British Empire reparation receipts are derived from Recovery Act procedure as opposed to cash transfer probability of short fall in price is much diminished, and this consideration of course affects proportionately all parts of the Empire to which separate sharing of reparation receipts have been allocated.

Although the reparation receipts of the British Empire are shared amongst several parts of Empire, 26% levy is at the present only collected in respect of German imports into the United Kingdom. In order to increase the receipts from this source, Treasury proposed endeavour should be made to negotiate new agreement with German Government, whereby 26% levy while continuing to be collected under present system should in future be based on German exports to all parts of the British Empire.

Such an agreement would require approval of Transfer Committee which it is anticipated would probably be forthcoming. It is recognized, however, that it may be a matter of difficulty to induce German Government to make fresh agreement on lines proposed, and it seems probable German Government will take opportunity of such negotiations to express their objections to duties (whether in United Kingdom or other parts of the Empire) which are regarded as creating difficulties for German exporters, and they may further press that the Dominions and India should conclude commercial treaties with Germany. It would of course be explained to German Government that it is a matter for decision of each part of the Empire whether to conclude such a commercial treaty and that no useful purpose would be served by introducing matter into present negotiations. Nevertheless it would be of assistance to our negotiators if Governments concerned could make known their views on this aspect of the matter if possible by the end of May, and could indicate to what extent any statement on the subject could properly be made to German Government.

It is desirable that if negotiations are to be entered upon, they should be begun at an early date since His Majesty's Ambassador at Berlin regards it as most desirable that negotiations should be begun before general elections in Germany on the 20th May. It is accordingly proposed to begin negotiations on the 13th May, but it is not expected that more than a preliminary discussion will take place before general elections.

Proposal would not involve legislation or any administrative action on the part of any of His Majesty's Governments, nor entail any obligations on their part, and present system for distributing British Empire reparation receipts would continue in force.

646.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 131

Ottawa, June 21, 1928

CONFIDENTIAL. Your despatch No. 108 of the 16th June, and previous correspondence regarding extension of reparation recovery procedure to other portions of British Empire. From preliminary consideration it appears probable that proposed arrangement will be considered wholly satisfactory in substance so far as Canada is concerned. A definite reply will be sent on

return of Minister of Finance beginning of next week. As to form of agreement it would appear desirable that all of His Majesty's Governments which are concerned should participate. In this case Canadian Government would request the British Ambassador at Berlin to act on its behalf.

647.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 141

Ottawa, June 28, 1928

CONFIDENTIAL. Our telegram No. 131 Confidential 21st June regarding extension of reparation recovery procedure. Minister of Finance approves of substance of proposed arrangement.

648.

*Le sous-secrétaire d'État au Premier ministre  
Under-Secretary of State to Prime Minister*

London, October 8, 1928

Sir,

RE: PROPERTY, RIGHTS AND INTERESTS OF BULGARIAN NATIONALS SEQUESTERED BY THE CANADIAN CUSTODIAN OF ENEMY PROPERTY UNDER THE TERMS OF THE TREATY OF NEUILLY-SUR-SEINE

By direction, I have the honour to submit for your consideration the following.

I have been in touch at Geneva, and subsequently in London, with His Excellency Vladimir Molloff, Minister of Finance and Royal Treasurer of Bulgaria, also with His Excellency the Bulgarian Minister at the Court of St. James.

As a result of these conferences, I have reported to the Secretary of State and Custodian, by cable, to the following effect:

Arranged terms of Bulgarian settlement with Bulgarian Minister of Finance now here and suggest better to have formal agreement signed at once. It is a small matter and not of sufficient importance to take you to Sofia. With your concurrence it will be signed by Dandurand or Larkin.

Under date of the 5th instant I have received the following message:

Minister approves execution Bulgarian Agreement by Dandurand Mr. Larkin.

I enclose, for your information, printer's proof No. 1 of the proposed agreement<sup>1</sup> between H. M. Canadian Government and the Kingdom of Bulgaria, one copy of which has been made in Senator Dandurand's name and another in that of the High Commissioner.

<sup>1</sup> Non reproduite.

<sup>1</sup> Not printed.

The terms of the agreement follow as closely as applicable to the circumstances the agreement executed between Canada and Austria, which was executed by the Honble. Ernest Lapointe, authorised by you, on or about the 15th November 1926, and was signed in London—the agreement was approved by Order in Council dated 4th May. 1927.

I would propose, with your concurrence, to ask Senator Dandurand, or the High Commissioner, as you may direct, to sign the agreement, as drafted, for subsequent ratification by Order in Council at a subsequent date.

His Excellency the Bulgarian Minister in London already holds special authority from the Royal Bulgarian Government to sign the agreement in the form submitted herewith.

I have etc.

THOMAS MULVEY

649.

*Décret du Conseil*

*Order in Council*

P.C. 2065

November 15, 1928

The Committee of the Privy Council have had before them a Report, dated 6th November, 1928, from the Honourable the Secretary of State, submitting that it was provided by the Treaty between the Allied and Associated Powers and Bulgaria, signed at Neuilly-sur-Seine on the 27th November, 1919, by Article 177 thereof, that the Dominion of Canada, being one of the Allied and Associated Powers therein referred to, has the right to retain and liquidate all property, rights and interests in Canada, belonging, at the date of coming into force of the said Treaty, to Bulgarian nationals; that it was further provided by paragraph (4) of the Annex following Article 177 of the said Treaty, that all property, rights and interests of Bulgarian nationals in Canada, and the proceeds of their sale or dealings therein, may be charged by Canada in the first place with payments of amounts due in respect of claims of Canadian nationals with regard to property, rights and interests, including companies and associations in which they are interested in Bulgarian territory, or debts owing to them by Bulgarian nationals; That so far as can be at present ascertained, there are no claims of Canadian nationals with respect to property, rights and interests, including credits and assets in which they are interested in the Kingdom of Bulgaria, or debts owing to them by Bulgarian nationals; that in pursuance of the aforesaid provisions in the said Treaty, the Custodian of Enemy Property took into his possession and liquidated certain property, rights and interests in Canada of Bulgarian nationals, for the purpose of charging thereon claims of Canadian nationals, as provided for by the said Treaty; That the Canadian Government proposes to hand over to the Royal Bulgarian Government the property, rights and interests of the Bulgarian nationals in Canada, for distribution among the Bulgarian nationals entitled

thereto, and that the Bulgarian Government has undertaken to distribute proceeds of liquidated property, rights and interests and unliquidated property in specie amongst the several Bulgarian nationals entitled thereto.

The Minister submits further that an Agreement has been entered into, in London, between the Government of the Dominion of Canada and the Government of the Kingdom of Bulgaria, negotiated by the Honorable Peter Charles Larkin, High Commissioner for Canada in London, and His Excellency P. Hadji Mischef, Envoy Extraordinary and Minister Plenipotentiary of His Majesty the King of the Bulgarians at the Court of St. James's on behalf of the Royal Bulgarian Government, a copy of which is attached hereto.

The Committee, on the recommendation of the Honourable the Secretary of State, advise that the said Agreement, attached hereto<sup>1</sup>, be approved and confirmed.

650.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 264

Ottawa, December 7, 1928

CONFIDENTIAL. Your telegram Circular B.127, November 27th, and preceding telegrams regarding proposed Expert Committee on German Reparations. Canadian Government trusts Committee will succeed in facilitating definite solution of reparations problem. The question of Dominion participation has received consideration. As, however, it appears Committee will consist of independent experts rather than instructed delegates and emphasis is laid on desirability of small numbers, and as probable that deliberations will be largely concerned with inter-allied debts, with which Canada is not directly concerned, it is not considered necessary to propose Canadian representative on Committee. It is assumed that recommendations of Committee will be referred for consideration to the Governments concerned and that adequate opportunity for Dominion representation in any conference or other method of discussion will be ensured.

651.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

DESPATCH 14

Downing Street, January 5, 1929

CONFIDENTIAL

Sir,

With reference to my Confidential despatch Dominions No. 473 of the 25th September, I have the honour to transmit, for the information of His

<sup>1</sup> Non reproduite.

<sup>1</sup> Not printed.



Majesty's Government in Canada, the accompanying copy of a despatch from His Majesty's Ambassador at Berlin forwarding a translation of an *Aide-Mémoire* from the German Government regarding the extension of the Reparations Recovery Act procedure to the Dominions.

I have etc.

L. S. AMERY

[PIÈCE JOINTE/ENCLOSURE]

*L'ambassadeur britannique en Allemagne au secrétaire  
aux Affaires étrangères*

*British Ambassador in Germany to Foreign Secretary*

DESPATCH 866

Berlin, November 15, 1928

CONFIDENTIAL

My Lord,

I have the honour to transmit to your Lordship herewith an *aide-mémoire* which was handed to me today by Herr von Schubert regarding the extension of the Reparations Recovery Act procedure to the Dominions. This *aide-mémoire* has been furnished in deference to the request your Lordship made to Herr von Schubert at Geneva, but, in handing it to me, the latter said that, if he had had an opportunity at the time you made the request for a memorandum, or later, he would have pointed out that he would have preferred to telegraph to Berlin to enquire whether an answer had not been returned to the note from this Embassy of the 16th August last.

2. As was to be anticipated, the memorandum begins by pointing out that the German Government had thought that the agreement come to at Geneva regarding a complete and final settlement of the reparations problem would have rendered the British proposal redundant, and had, for that reason, abstained from answering the note from this Embassy of the 16th August last. But whilst the German Government consider the present moment hardly suitable for the continuation of the discussion about this subject, they do not wish to evade a reply to the expressly-stated request of the British Embassy.

I have etc.

HORACE RUMBOLD

[ANNEXE À LA PIÈCE JOINTE/SUB-ENCLOSURE]

AIDE-MÉMOIRE

(TRANSLATION)

In their memorandum of the 14th July, 1928, the German Government set forth the objections of principle which render it impossible for them to consent to the proposal made in His Britannic Majesty's Government's

memorandum of the 18th May, 1928, for a territorial extension of the scope of the agreement of the 3rd April, 1925, regarding the amendment of the Recovery Act procedure.

In the Embassy's note of the 16th August, 1928, His Majesty's Government defined their position with regard to the arguments cited by the German Government in justification of their refusal, and suggested that the matter should be examined afresh in the light of their counter-arguments.

The German Government was under the impression that the British proposal regarding the question of the Recovery Act had been rendered otiose by the agreement reached in Geneva for a complete and final settlement of the reparations problem; they have therefore refrained hitherto from replying to the note of the 16th August, 1928; but although they consider the present juncture little suited for continuing the discussion of this particular question, they feel, nevertheless, bound to comply with the expressly-stated wishes of His Majesty's Government in this connexion.

The German Government have minutely examined the point of view set forth in the British note of the 16th August, 1928. In spite, however, of this renewed examination, they are still unable to accede to the British proposal, and they venture once more to expound their fundamental conception of the question in the light of the view-point expressed in the note of the 16th August, 1928 . . .

Berlin, November 1, 1928

## 652.

*Le secrétaire d'État aux Affaires extérieures au Haut commissaire*  
*Secretary of State for External Affairs to High Commissioner*

TELEGRAM 73

Ottawa, August 1, 1929

IMMEDIATE. CONFIDENTIAL. Your telegram No. 69. We hope that you will find it possible to attend conference at Hague. The problems to be settled are of distinct importance and are likely to be the subject of considerable interest in Canada. His Majesty's Government in Great Britain will be strongly represented. It therefore seems particularly desirable that Canada should have a representative in whose financial judgment the country will have confidence. We assume that preliminary proceedings will be brief and that it will be possible for you to visit Canada shortly in accordance with your original plans and to discuss the question with Ministers here before a conclusion is reached. On the understanding as intimated in your telegram No. 68 that you would be prepared to go if desired, we are therefore informing British Government that you are being asked to represent Canada. Preliminary instructions and points for enquiry will be telegraphed tomorrow.

653.

*Le secrétaire d'État aux Affaires extérieures au Haut commissaire*  
*Secretary of State for External Affairs to High Commissioner*

TELEGRAM 75

Ottawa, August 2, 1929

VERY SECRET. Reference to your telegram number 68 and Dominions Office telegram Circular B. 106 very secret July 31 and Young Report, your instructions are:

First. Canadian Government considers that Experts proposals should be accepted generally in principle, subject to necessary qualifications and safeguards and reserving consideration of proposal that reparations after 1965 should be limited to amount of debts.

Second. The provisions of the report relating to the International Bank should be amended so as to render it possible for countries that have not central banks to participate. It is suggested that there should be added to the second paragraph on Page 49, the following:

If, in any country, there is no central bank or bank of issue, the term 'central bank' as used in this outline shall be interpreted to include an incorporated association of banks of issue or any other financial group designated by the government of the country.

Third. The position taken by the British representatives looking to a restoration of the former proportion of reparations allotted to the British Empire should be supported.

Fourth. No adequate ground appears to be given in the Young Report for the provision assigning to France and Italy a prior right in the non-postponable annuities and it is not apparent that Annex 8 provides definite assurance of full payment to other countries if postponement exceeds one year. In any event an effort should be made to ensure that any priority thus given should not be converted into definite decrease of the shares of other countries in the total German payments.

Fifth. You should ascertain whether the Reparations Recovery Procedure is to terminate with the deliveries in kind in ten years and how it is dovetailed into the bank scheme at present and whether there is any possibility of requirement of Canadian Reparations Recovery Act or of acceptance of deliveries in kind by Canada, and whether Canada is to receive share of reparations through British Reparations Recovery Act or through bank.

Sixth. Reference Young Report page 27 third paragraph ascertain extent of suspension of right to seize, retain and liquidate property proposed, and whether property already liquid or liquidated or finally disposed of is affected by these recommendations of the Report.

Seventh. Question of division of British Empire share in first 37 years and of apparent proposal that payments to British Empire after 1965 should be limited to amount of United Kingdom foreign war debt payments and that this amount should be assigned wholly to United Kingdom, is receiving further consideration.

654.

*Le secrétaire d'État aux Affaires extérieures au Haut commissaire*  
*Secretary of State for External Affairs to High Commissioner*

TELEGRAM 77

Ottawa, August 7, 1929

IMMEDIATE. SECRET. Following to be forwarded immediately to Mr. Larkin at The Hague. Begins. Reference to my telegram number 75 dated August 2nd, first paragraph, in which the Canadian Government reserved consideration of the proposal that Reparations after 1965 should be limited to amount of inter-allied war debts, you are further instructed;

First, that the general basis of the Young plan is objected to by the Canadian Government insofar as it confuses reparations and war debts due to foreign governments, which are separate matters. The Canadian Government cannot see the force of the view that a claim for reparations should be preferred merely because the claimant owes money to another country rather than to individual holders of war debt obligations. The Canadian Government is prepared to agree to the total of the annuities set forth in the plan, but takes the position that they should be apportioned throughout the entire fifty-nine years in proportion to reparations claims generally, taking the Spa 1921 quotas as a satisfactory basis, without regard to inter-allied war debts, and that both the unconditional and the conditional payments should be divided among all the countries entitled to reparations in the same proportions.

Second, that this view should be presented formally, but that if it appears that it will not receive any substantial support, the Canadian Government in the interests of a settlement will be prepared to join with other governments in endeavouring to reach a basis of agreement which will commend itself generally. Ends.

655.

*Le Haut commissaire au secrétaire d'État aux Affaires extérieures*  
*High Commissioner to Secretary of State for External Affairs*

TELEGRAM 2

The Hague, August 9, 1929

Your telegram No. 75, 3rd August. Have had a conversation with the Chancellor of the Exchequer giving your views generally. With reference to your second paragraph on the Bank, it appears that the present intention is to



limit participation keeping number of partner countries down to secure from it is stated a more convenient organization, shall press for your amendments and expect support judging from view expressed in general debates yesterday and today. Third and fourth paragraphs Chancellor of the Exchequer deals with in strong terms at Conference. Fifth paragraph is noted and as the situation develops will report. Sixth paragraph. Informed suspension applies only to property not seized at date of adoption of Young Report and reference to liquid property refers to cash balances if any. Your telegram No. 77, 8th instant. I had unofficial talk with British representative and expressed views identical with your telegram No. 77 containing official instructions. Replying to my unofficial views the British have submitted written reply which I quote:

(i) The German Experts on Young Committee refused almost to the end to make any payments for longer than 37 years. It was only after resignation of Doctor Voegler that they accepted an arrangement, which still gave rise to a lot of difficulty, for payments in the last 22 years covering the war debt payments to creditor Governments (which the Germans expected would never have to be made), coupled with arrangements contained in plan under which a part of the profits of the Bank, a part of any remission of debts to the United States during the first 37 years, and the whole of any such remission during the last 22 years, should be applied to the reduction of German liabilities during those last 22 years.

(ii) It is suggested that question of a share for the Dominions in the last 22 years can be dealt with purely as a question between different parts of the British Empire. But in no circumstances would His Majesty's Government in Great Britain agree to accept less than full cover for Great Britain debts in the last 22 years; therefore, if any share is to be found for the Dominions, it must take the form of an addition to German annuities in those years. This would inevitably lead to a similar demand from Japan (which has not allied debts and is to forego any share in the last 22 years) and to demand reparation payments over and above debts form e.g. France, Belgium, Serbia; and this would be certain to lead to a breakdown of the whole plan.

(iii) If the Dominions received a share in the last 22 years, it is quite reasonable as a counterpart that they should bear a share in the loss falling on Great Britain in the first 37 years by reason of reduction in Great Britain's percentage proposed by Young Committee. The profit and loss to Canada would work out as follows in terms of present value.

For tabulation. Main Heading. Million Reichmarks. Column 1. Sub heading Percentage. 5½ 7½ 10. Column 2. Sub heading. Loss in respect of first 37 years. 13.5 10.7 8.3. Column 3. Sub heading. Gain in respect of last 22 years. 25.5 10.7 3.8.

To take account of probability that the last 22 annuities will not be paid, this estimate ought to be made on an interest basis of at least 7½ per cent.

(iv) The Spa percentages have not in fact been applied to all during the last 22 years. The actual percentage of distributions (omitting the United States) of the last 22 years are as follows:

For tabulation. France 50.18, Great Britain 19.21, Italian 22, Belgian 3.38, Roumania 2.64, Serbs 1.45, Greece .62, Portugal .52 total 100 per cent.

The Italian share is very high because Italian debt payments rise in a steep curve. It is inconceivable that Italy would accept her Spa percentage (10%) in these years and leave her debts uncovered; and His Majesty's Government in Great Britain for their part could not press Italy to make such a sacrifice.



(v) It may be added that the British Experts on the Young Committee worked exceptionally hard against very severe opposition to make certain of getting full Dominions share in the first 37 years. The extent of their efforts may be measured by the fact that they succeeded in getting full Dominions share, while they did not succeed in getting the full share of Great Britain.

Think evident from above that Dominions position involved with the United Kingdom. If you find calculations correct I venture to commend declaration now contemplated for the Empire shares if Young Report adopted because I estimate the present value of Canadian shares on 5½ basis at approximately \$21,000,000 against the present value quota of share in 59 annuities \$23,000,000 moreover opinion prevails that last 22 annuities will never be collected. Opportunity opens support Chancellor of the Exchequer in any case but would like instructions for reply to United Kingdom Government's memorandum.

656.

*Le Haut commissaire au secrétaire d'État aux Affaires extérieures*  
*High Commissioner to Secretary of State for External Affairs*

TELEGRAM 3

The Hague, August 9, 1929

Reference to The Hague telegram No. 2. Add the following paragraph to memo of the United Kingdom quoted there and insert in immediately before paragraph beginning "It is suggested". New paragraph begins: Any attempt to put payments in the last 22 years on a different footing would inevitably have led to a failure to secure any payments during those years. New paragraph ends.

LARKIN

657.

*Le Haut commissaire au secrétaire d'État aux Affaires extérieures*  
*High Commissioner to Secretary of State for External Affairs*

TELEGRAM 13

The Hague, August 31, 1929

Conference at Plenary Meeting today (Saturday) adopted Young plan in principle but with minor reservations and adjourned at call of Chairman upon receipt of Reports of Sub-Committees constituted by Plenary Committee today (Saturday) members of which will be named later. Plenary unlikely to reassemble until late October. I am sailing on first available ship telegraphing when arrangements made. Would Prime Minister desire to see me upon arrival or later. In case of absence, would Minister of Finance desire to see me upon arrival in which case I will go immediately to Ottawa.

LARKIN

658.

*Le secrétaire d'État aux Affaires extérieures au secrétaire aux Dominions*  
*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 166

Ottawa, September 24, 1929

IMMEDIATE. Reparations. Part One. While unable to concur in the view that payment to foreign governments should be made the determining factor in distribution of reparations either as between the allied countries or the parts of the British Empire concerned the Canadian Government is prepared to accept the proposal for allotment in Circular A. 26 July 3rd. It is understood from Circular B. 92 July 16, that Canada and other Dominions will share pro rata in all unconditional annuities.

Part Two. With reference to proposed Bank of International Settlements we consider arrangements practically limiting participation and control to countries which had representatives on Young Committee wholly unsatisfactory. In view of proposed function of Bank as a general agency of international finance we consider that Canada's present position in world commerce would warrant recognition of right to participate in issue and share in control. Technical difficulty presented by limitation of participating countries to those having central banks of issue, could easily be modified. This question was fully discussed by High Commissioner of Canada with Chancellor of the Exchequer.

Please transmit copy of Part Two to Secretary General of Reparations Committee, Sir Maurice Hankey.

659.

*Le sous-secrétaire d'État aux Affaires extérieures par intérim*  
*au secrétaire, Haut commissariat*  
*Acting Under-Secretary of State for External Affairs*  
*to Secretary, Office of High Commissioner*

Ottawa, October 1, 1929

Dear Sir,

I forward to you herewith copy of an Order-in-Council<sup>1</sup> approved by the Governor General on the 25th September, 1929, recommending, in accordance with the suggestion contained in the Report of the Committee of Experts on Reparations, commonly known as the Young Report, that the liquidation of German private property in Canada shall forthwith cease; that information to this effect be communicated through the proper channels to the German Clearing Office, that steps be taken to enter into an Agreement with the German Clearing Office for the protection and indemnity of Canada in the return of German property, and that a representative of the Canadian

<sup>1</sup> C.P. 1898, non reproduit.<sup>1</sup> P.C. 1898, not printed.

Government or an observer on behalf of the Canadian Government at the "Liquidation of the Past Committee" set up by the Hague Conference be appointed.

I would ask you to be good enough to notify the Dominions Office of the contents of this document, as well as Lieutenant-Colonel Sir Maurice P. A. Hankey, G.C.B., Clerk of the Privy Council.

I might add that Mr. Thomas Mulvey, K.C., Under-Secretary of State and Deputy Custodian, has been directed, in accordance with the terms of the Order-in-Council, to proceed to Berlin.

Yours very truly,

W. H. WALKER

660.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM 138

London, October 4, 1929

Your telegram of the 24th September, No. 166. Reparations. Part 1. His Majesty's Government in the United Kingdom are glad to note that His Majesty's Government in Canada now accept the proposal for distribution among the different parts of the Empire in my telegram Circular A. 26, 3rd July. It is agreed that the allotment to the British Empire of unconditional annuities under The Hague Protocol will be shared pro rata between the United Kingdom and the other parts of the Empire.

Part 2. His Majesty's Government in the United Kingdom consider that the Bank for International Settlements should be established on as broad a basis as possible and that the reparations of the creditors should not have too preponderate an influence. They understand that the British Members of the Organisation Committee share these views. Having regard to the provisions of Section XII of Annex I of the Young Plan, the difficulties in the way of participation of the countries not having central banks would appear to be largely practical, but it will be realized that it may be difficult to secure any extensive modifications of the Bank scheme as drafted by the Young Committee.

A copy of your telegram under reply has been sent to the British Members of the Organisation Committee who have been requested to bring its contents to the notice of the Committee.

661.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM B. 149

London, October 4, 1929

CONFIDENTIAL. My telegram of the 28th August, Circular B. 128, Reparations. Copies of The Hague Conference Protocol were enclosed in my despatch of the 20th September, Dominions No. 444, Confidential. The following technical Committees provided for by the Protocol viz. I. The Committee for Deliveries in Kind; II. The Committee for Liquidation (Past?); III. The Committee in regard to final settlement of Austrian, Hungarian and Bulgarian reparations and liberation of debts, are now meeting in Paris.

The Organisation Committee for Bank for International Settlements was due to meet at Baden Baden on the 3rd October. After all Committees have reported, second final stage of Conference will take place probably in November next. Some difficulty may arise over the settlement of the Austrian, Hungarian and Bulgarian reparations but if, as may be hoped, these Committees arrive at agreed conclusions this session, Conference will probably be largely formal i.e. will be occupied in translating the formal instrument of Agreement arrived at under the various heads. It would be greatly appreciated if we could be informed as soon as possible of the wishes of His Majesty's Governments in the Dominions with regard to representations at the final stage of the Conference, and to the signature of such instrument as may be proposed.

2. It will also be necessary at the final stage of the Conference to settle terms of trust Agreement defining power to be given to the Bank for International Settlements in regard to receipts and distribution of German annuities in accordance with Section 8 of Annex I of the Experts' Report. This might take the form of single document signed by the Bank on the one hand and by all the creditor Governments on the other hand, or alternatively separate document between the Bank on the one hand and each creditor Government on the other hand. In the latter case the question would arise whether there should be single trust Agreement between the Bank on the one hand and the Governments of all parts of the British Empire concerned on the other hand, or separate trust Agreements between the Bank and each of those Governments. The Spa Agreement and the Paris Agreement of 1925 treated the British Empire's share of the reparations as a single whole and the distribution of this share was regarded as a matter for arrangement between His Majesty's Governments concerned. The same course has been followed in

Report of Expert Committee and in the circumstances it would probably be regarded as preferable if trust Agreement were to be between Bank on the one hand and all His Majesty's Governments concerned on the other hand, and if it were arranged as a matter of practical convenience that the British Empire's share of reparations should continue to be paid to His Majesty's Government in the United Kingdom who would continue to arrange for distribution of Dominions' share as hitherto. We should be glad to know as soon as possible whether adoption of this course would be agreeable to His Majesty's Governments in the Dominions.

662.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 183

Ottawa, October 29, 1929

CONFIDENTIAL. Replying to your confidential telegram Circular B.149 of 4th October inquiring as to our wishes with regard to representation at final stage of the Hague Conference regarding Reparations and the signature of such instrument as may be proposed and as to the form of the trust agreements between the Bank for International Settlements and the creditor Governments, His Majesty's Government in Canada will continue to be represented in Conference by the High Commissioner in London, who will be prepared to sign concluding instrument. The question whether, in the event of separate documents between Bank on the one hand and each creditor Government on the other, there should be a single trust agreement between Bank and Governments of all parts of the British Empire or separate agreement between Bank and each of these Governments would depend in some measure on the form and contents of agreement. In either case, we assume that each of His Majesty's Governments would be distinctly represented in signature. We shall be able to give definite opinion on question when proposed trust agreement takes more definite shape.

663.

*Le secrétaire d'État aux Affaires extérieures au Haut commissaire  
Secretary of State for External Affairs to High Commissioner*

TELEGRAM 1

Ottawa, January 10, 1930

IMMEDIATE. CONFIDENTIAL. Reference proposed statute for Bank for International Settlements. The Canadian Government considers that it should



be made clear that the provisions of the statute relating to participation by countries which have not participated in the original subscription would enable Canadian participation. For that purpose it is considered that there should be either an interpretative resolution or an official statement by the Committee that the phrases "or other banks;" "or the institution acting in lieu of the Central Bank" and; "appropriate financial institution" in Articles 7, 13, 15 and 28 are intended to include a group of banks or an institution such as the Canadian Bankers Association.

It should also, if possible, be made clear that the powers and discretion vested in the Board under Article 15 and under the last paragraph of Article 28, are to be exercised with the concurrence of the Minister of Finance of the country concerned.

Failing an interpretative resolution or official statement it may be desirable that you should have inserted in the records of the conference a statement that the Canadian Government places the interpretation set forth above upon the statute but we should like your recommendations before a decision is reached.

664.

*Le Haut commissaire au secrétaire d'État aux Affaires extérieures*  
*High Commissioner to Secretary of State for External Affairs*

TELEGRAM 22

The Hague, January 13, 1930

Your telegram No. 1. Reference proposed Statutes. Conferred with Chairman of Bank Organization Committee yesterday who makes the necessary following observations on your suggestions. Statutes were drafted to meet requirements first of Central Banking System but also to meet system of other countries, he suggests Canadian Bankers' Association in consultation with Minister of Finance might agree upon a Canadian bank rather than Canadian Bankers' Association to assume functions in Articles 7, 13, 15, 28. He says Committee could not agree to introduce provisions for concurrence of Minister of Finance and advises that Governments as such have no control of bank but in practice bank could not function in any country except in agreement with Government's wishes. He thinks impossible to amend Statutes. Board of bank has wide powers of amendment and Chairman's opinion if necessary the Canadian position could be accommodated met by subsequent amendment. In view of the above do you wish statement made in Conference for record on Minutes.

LARKIN

665.

*Le Haut commissaire au secrétaire d'État aux Affaires extérieures**High Commissioner to Secretary of State for External Affairs*

TELEGRAM 24

The Hague, January 14, 1930

Following for the information of the Under-Secretary of State. Canadian-German Agreement regarding return of unliquidated property<sup>1</sup> signed today 14th January by the High Commissioner for Canada and Herr De Haas for Germany. Shall I supply copy to British Government if asked for?

LARKIN

666.

*Le secrétaire d'État aux Affaires extérieures au Haut commissaire**Secretary of State for External Affairs to High Commissioner*

TELEGRAM 3

Ottawa, January 17, 1930

IMMEDIATE. Your telegram No. 22 reference Bank Statute. We trust that observation of Chairman that statutes were drafted to meet systems of countries not having central bank system will be given effect. Canadian position was placed before Bank Organization Committee through British representatives before Statute was drafted and assurance was later forwarded through same channel that due provision had been made. If however phrase "approved financial institution" is to be interpreted as meaning a single bank only, as appears from your telegram, it is plain that no provision whatever has been made for meeting Canadian position. It was made clear that under Canadian conditions no single bank could possibly be selected and that to make our participation possible it was necessary to provide for action by group of banks. You should therefore endeavour to secure an amendment to this effect or an official statement sanctioning interpretation to cover approved group. Amendment by Board after signature not satisfactory. If such action cannot be secured from Committee we consider it necessary for you to make statement for record indicating that you sign on understanding that this is a proper interpretation of phrase. Discuss with British delegation and advise us.

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<sup>1</sup> Cette entente fut négociée au nom du Canada par Thomas Mulvey, sous-secrétaire d'État et séquestre adjoint des biens ennemis; voir document 659.

<sup>1</sup> This Agreement was negotiated, on behalf of Canada, by Thomas Mulvey, Under-Secretary of State and Deputy Custodian of Enemy Property; see Document 659.

667.

*Le Haut commissaire au secrétaire d'État aux Affaires extérieures*  
*High Commissioner to Secretary of State for External Affairs*

TELEGRAM 24

The Hague, January 18, 1930

Your telegram No. 3. Chairman referred to in our No. 23 [22] was Chairman of the British Delegation on the Bank Organization Committee. Conferred today with Chairman of the whole Committee also yesterday with a Sub-Committee. Committee interpretation of Act is that phrase "approved financial institution" means that a single bank should be selected to exercise voting rights and suggest that by agreement among Canadian banks this right of voting might be in rotation by years. With regard to Article XVI phrase "or the Bank group may issue" Committee says that this means that any group or syndicate may subscribe for shares and distribute but voting on these shares must be given by nominated Bank. Chairman, an American, says he understands Canadian position and considered it when drafting Statutes and suggests that Canadian participation is provided for and practicable within Statutes as drafted. He adds that in the United States banks will probably agree on Federal Reserve Bank of New York to vote on shares taken up in the United States, but by agreement another might be selected. Plenary Meeting 19th or latest 20th January probable date when Statutes will be adopted. Advise us.

LARKIN

668.

*Le secrétaire d'État aux Affaires extérieures au Haut commissaire*  
*Secretary of State for External Affairs to High Commissioner*

TELEGRAM

Ottawa, January 19, 1930

IMMEDIATE. Your telegram 24th [sic]. Suggested course does not fully meet Canadian position. Use your discretion as to making another attempt to secure from Committee statement that phrase "approved financial institution" may be interpreted to cover approved group. If this is not found possible it is not desired to block settlement by insistence on this point and you are authorized to sign without reservation.

669.

*Le Haut commissaire au secrétaire d'État aux Affaires extérieures*  
*High Commissioner to Secretary of State for External Affairs*

TELEGRAM 6

London, January 23, 1930

High Commissioner, under authority of your telegram No. 4 to The Hague 18th January, signed on the 20th January with all the other Governments Final Acts and various Annexes adopted by the Hague Conference. The Young Plan as amended becomes effective when four of the principal Powers have deposited ratification with the French Government.

With reference to your telegram 19th January relative to Bank Statute, conferred with Committee but failed to secure statement desired from Committee, and Chairman urged against any reservation, hence followed your instructions.

Relating to Hungarian Agreement this was signed under reserve and circumstances reported to Secretary of State direct. Documents will be sent immediately available.

670.

*Le secrétaire, Haut commissariat, au secrétaire d'État aux Affaires extérieures*  
*Secretary, Office of High Commissioner, to Secretary of State*  
*for External Affairs*

TELEGRAM 23

London, February 13, 1930

Reference your cable No. 183, Confidential, of 29th October last to Dominions Office relative to form and signature to Trust Deed under which Bank International Settlement will distribute annuities provided in new plan. For your information the following. Trust Deed was not signed at Hague but form there adopted is Annex VIII to German Agreement sent you 7th February and shortly requires signature by all creditors of Germany. Attached to Trust Deed will be a schedule setting out share of each creditor. Have been asked by Treasury here to suggest that each of His Majesty's Governments be distinctly represented by signature but that schedule would disclose only one share for British Empire payable to His Majesty's Government in Great Britain for distribution to the Empire partners. Alternative would be that schedule should show Great Britain and each Dominion separately. It is pointed out, however, that alternative plan would disclose Empire share for international comments or objections in the sense that Foreign Governments would jointly with all creditors become responsible for Empire arrangements which responsibility would be implied by their signature to a single trust agreement. If suggestion that schedule show one share for Empire is agreeable, we have good reason for thinking that Empire partners would

agree to issue a joint standing instruction to bank for distribution of Empire shares on banks' books thus bringing individual share at the disposal of the respective Governments under terms of Trust Deed.

671.

*Décret du Conseil*

*Order in Council*

P.C. 457

March 5, 1930

The Committee of the Privy Council have had before them a Report, dated 25th February, 1930, from the Secretary of State, submitting that it was provided by Article 297 of the Treaty between the Allied and Associated Powers and Germany signed at Versailles on the 28th June, 1919, that Canada, being one of the Allied and Associated Powers therein referred to, has the right to retain and liquidate all property, rights and interests in Canada belonging at the date of the coming into force of said Treaty to nationals of the German Reich; That it is provided by Section 4 of the Annex following Article 298 of the said Treaty that all property, rights and interests in Canada of nationals of the German Reich and the proceeds of their sale or dealings therein may be charged by Canada in the first place with payment of amounts due in respect of claims by Canadian nationals with regard to property, rights and interests, including companies and associations in which they are interested in the German Reich or debts owing to them by German nationals; That, in pursuance of the aforesaid provisions in the said Treaty, the Canadian Custodian of Enemy Property, hereinafter called "The Custodian", took into his possession certain property, rights and interests in Canada of German nationals, and charged thereon certain claims of Canadian nationals, as provided for by the said Treaty; That the Allied and Associated Powers and the Government of the German Reich, by a Protocol dated the 31st August, 1929, and signed at The Hague, adopted in principle, subject to certain reservations, the Report of the Committee of Experts generally known as the "Young Plan"; That certain of the property, rights and interests in Canada of German nationals remain unliquidated; That the Government of Canada adheres to the recommendation contained in Article 144 of the Report, dated June 7th, 1929, of the Committee of Experts, and that an Agreement with the Government of the German Reich for putting into force this recommendation in so far as it relates to the return to the German owners of their property, rights and interests not liquid, liquidated or finally disposed of, has been signed on behalf of the Government of Canada by the late the Honourable Peter Larkin, formerly High Commissioner for Canada in London, and on behalf of the German Reich by the Ministerial director de Haas.

The Committee, on the recommendation of the Secretary of State, advise that the Agreement above referred to, a copy of which is attached hereto,<sup>1</sup> for

<sup>1</sup> Non reproduite.

<sup>1</sup> Not printed.



the purpose of carrying into effect the return of unliquidated property, as recommended by the Young Plan in the paragraphs of the Report relating to "The Liquidation of the Past", dated the 7th of June, 1929, and the Protocol dated 31st August, 1929, be approved and confirmed.

672.

*Le secrétaire d'État aux Affaires extérieures au Haut commissaire*  
*Secretary of State for External Affairs to High Commissioner*

TELEGRAM 31

[Ottawa,] March 12, 1930

IMMEDIATE. Reference your telegrams No. 23 of 13th February last and No. 40 of 6th March. Canadian Government approves proposals submitted by Treasury in your telegram No. 23 as explained by No. 40, namely,

First. That Canada is to be a separate party and to sign separately Trust Agreement.

Second. That schedule be annexed based on Annex VII to Young Plan in which single series of annuities appears payable to British Empire rather than separate listing of Dominion annuities.

Third. That Great Britain and Dominions will agree to issue joint standing instructions to Bank for distribution of British Empire share in Bank's books in accordance with agreed distribution.

673.

*Le ministre en France au secrétaire d'État aux Affaires extérieures*  
*Minister in France to Secretary of State for External Affairs*

TELEGRAM 22

Paris, April 29, 1930

Final text of accord on Hungarian obligations now ready for signature. According to your instructions I have made reservations concerning Massey Harris claim. Present text differs considerably in form from those signed by the late Honourable Larkin but substance is substantially the same. British delegate has already signed for the other Dominions. Chairman would like to have our signature tomorrow, Wednesday, if possible. Please cable instructions.

674.

*Le secrétaire d'État aux Affaires extérieures au ministre en France*  
*Secretary of State for External Affairs to Minister in France*

TELEGRAM 26

Ottawa, April 29, 1930

IMMEDIATE. Reference your telegram No. 22 the 29th April you are authorized to sign Hungarian Agreement. Reference my letter and despatch

No. 58 both 17th April 1930 you are authorized to sign Trust Agreement and Letter of Instructions to Bank for International Settlements expected to be signed Paris 1st May. You are further authorized to sign Trust Agreement relating to Bulgarian Reparations. Formal authority is being sent by letter.

675.

*Le secrétaire, Haut commissariat, au secrétaire d'État  
aux Affaires extérieures*

*Secretary, Office of High Commissioner, to Secretary of State  
for External Affairs*

TELEGRAM

London, May 8, 1930

Informed today for first time by His Majesty's Treasury that Governor of Bank of England had notified them that it was the intention of the Governor of the Bank of France to question the right of the Dominions to sign Trust Agreement if such signature conferred on them full power of independent creditors under the provisions of The Hague Agreements. British Government informed us they were getting an authoritative opinion on the legal position for their own guidance previous to first meeting of International Bank to be held Monday at Basle. For your information following is text of document left with us by Treasury covering points which are to be submitted:

An opinion is desired on question whether His Majesty's Governments in the Dominions and Government of India are independent creditor powers within meaning of The Hague Agreements, *Cmd. 3483*, and in particular within meaning of Trust Agreement with the Bank for International Settlements printed on page 68 and following pages of *Cmd. paper*. For example, and in particular, has the Bank for International Settlements to inform those Governments when it appears to it possible to proceed with an issue of bonds under Article 12 (a), and is one of those Governments entitled to be a party to a dispute with the Bank and to obtain a decision by arbitration under Article 20. The Contracting Party to the Treaty of Versailles was His Majesty the King, but it was signed separately for Great Britain, the Dominions and India. Article 237 provides that German payments shall be distributed in proportion agreed upon between Allied and Associated Powers. The distribution of German payments referred to in Article 237 took place by Spa Agreement, your telegram of 16th July, 1920, and subsequent supplementary Agreements. The Spa Agreement allots 22% of reparation payments to British Empire. The distribution of British Empire receipts thus became a question internal to the Empire and was settled at the Imperial Conference of 1921, it being agreed that Great Britain should (receive ?) 86.85% of British Empire share; Canada and Australia each 4.35% and so on. The Dominion Governments were not separately represented on Reparation Commission. The Hague Agreements were signed by representatives of each of the Governments concerned including each of the Dominion Governments and the Government of India who thus presumably are contracting parties. The share of German annuities and also share of unconditional part of those annuities was allotted to the British Empire as a whole. By an unfortunate mistake the share in reparations loan referred to in Article 12 (c) of page 77 of the Blue Book was allotted to Great Britain but this is obviously a clerical error for the

British Empire. It is desired that Trust Agreement with the Bank for International Settlements shall be signed by Great Britain and each of the Dominions and the Government of India separately, and that a joint letter of instructions shall be addressed to the Bank notifying distribution of the British Empire's shares and instructing the Bank to treat each Government as an independent creditor Government for all purposes in respect of the shares thus notified. It is understood that certain members of the Board of the Bank will contest such a proposal and will argue that the Bank has relations only with Great Britain representing the British Empire as a whole. It is therefore considered desirable that an authoritative expression of opinion on legal position should be available before first meeting of the Board of the International Bank which will take place at Basle on Monday next.

676.

*Le secrétaire d'État aux Affaires extérieures au secrétaire,  
Haut commissariat*

*Secretary of State for External Affairs to Secretary,  
Office of High Commissioner*

TELEGRAM 75

Ottawa, May 9, 1930

IMMEDIATE. Reference your telegram code 8th May. The Canadian Government is of the opinion that the position proposed to be taken by the Governor of the Bank of France is not in accordance with the legal position under the Agreement with Germany.

The French position is based upon the theory that there is a single British Empire annuity and that therefore there should be a single party to the Trust Agreement. Under the Versailles Treaty and subsequent amending and revising agreements, Great Britain and Dominions are jointly entitled to the British Empire share of German Reparations. It has been maintained as a single annuity and the interests of the joint annuitants have been regulated by Inter-Commonwealth distribution under 1921 resolutions and subsequent revisions.

Throughout the First and Second Hague Conferences on Reparations and in all the Agreements the separate rights of Great Britain and the Dominions have been recognized.

Acceptance of the French position means that no one government can sign the Trust Agreement in respect to the British Empire share because there is no one government of the British Empire. There is no creditor government in respect to the British Empire share and the whole project fails.

The Agreement with Germany clearly contemplates that the Canadian Government will be a party to the Trust Agreement. The form of Trust Agreement settled at The Hague clearly contemplates that the Canadian Government will be a party. It was plainly the understanding at The Hague in January and ever since that Canada would be a party. Legally I have been advised that the Canadian Government should be a party.

I am at a loss to understand what the Governor of the Bank of France, or even the Board of the Bank, has to do with a matter that has been settled by the understandings and formal agreement of the Hague Conference on Reparations. Please furnish a copy to Dominions Office.

677.

*Le secrétaire, Haut commissariat, au secrétaire d'État  
aux Affaires extérieures*

*Secretary, Office of High Commissioner, to Secretary of State  
for External Affairs*

TELEGRAM 114

London, May 13, 1930

My telegram 8th May, No. 110, and your telegram No. 75 in reply. I have official communication dated 12th May, 1930, from the Dominions Office to the effect that His Majesty's Government in the United Kingdom has been advised that there can be no doubt that His Majesty's Governments in the Dominions and India are independent creditor Powers or creditor Governments within the meaning of The Hague Agreements including draft of Trust Agreement.

Do you accept draft letter of instructions as amended by my telegram No. 106 of the 5th May with a possible reservation by Australia respecting distribution of unconditional annuities as set out in schedules (attached?) and based upon 55 million Reichmarks not 83.8 million. I am expected to sign letter of instructions as Acting High Commissioner and if so instructed will then despatch copies to Roy for his information.

678.

*Le secrétaire d'État aux Affaires extérieures au secrétaire,  
Haut commissariat*

*Secretary of State for External Affairs to Secretary,  
Office of High Commissioner*

TELEGRAM 78

Ottawa, May 14, 1930

IMMEDIATE. SECRET. Reference your telegram No. 114, 13th May. By Dominions Office telegram, secret, No. 57, 8th May, Treasury agreed to increase Canada's share of mobilisation. We assumed that this involved corresponding increase Canada's share unconditional annuity. To elicit views we cabled Dominions Office today:

Please cable whether we are correct in our understanding that agreement by Treasury to increase Canada's share of mobilisation involves corresponding increase of Canada's share of unconditional annuities.

679.

*Le secrétaire d'État aux Affaires extérieures au secrétaire,  
Haut commissariat*

*Secretary of State for External Affairs to Secretary,  
Office of High Commissioner*

TELEGRAM 80

Ottawa, May 17, 1930

IMMEDIATE. Reference your telegram No. 118, 15th May and our telegram No. 78, 14th May. Dominions Office replied in negative and stated that position was being explained to you. We have received no explanation of discrepancy between proportions in mobilization and in unconditional annuities. We can find no evidence in Annex to Protocol, August 31st of increase of share of unconditional annuities beyond Fifty-five Millions. We have no explanation for disproportion between Article XII Trust Agreement and Article VII of Annex I to Protocol 31st August. Mr. Roy has been given Full Powers to sign Trust Agreements and Letters of Instruction. If Letters of Instruction require to be signed in London we shall send authority to you and we hope to be able to send the necessary authority Monday in order to close the matter. Please keep Mr. Roy in touch with all arrangements.

680.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM B. 79

London, May 20, 1930

IMMEDIATE. SECRET. Meeting of Treasury Experts is to be held in Paris, 7 Rue de Tilsitt, 3.30 P.M. Thursday afternoon to discuss details of the proposed Reparation Loan. It is hoped to sign Contract between Creditor Governments concerned and Bank for International Settlements on Saturday.

Our Experts propose to explain that the Dominion Governments and the Government of India are independent of the Creditor Governments in respect of agreed share of each mobilisation, but it will be probably necessary for Trust Agreement to be signed by Dominion Governments, and for joint Letter of Instructions on behalf of the several Governments of His Majesty giving respective share of mobilisation, to be signed before this position is recognized.

Trust Agreement will, it is hoped, be available for signature by the Dominion representatives this week and will be brought to London for signature by the High Commissioners for the Commonwealth of Australia, New Zealand and the Union of South Africa, having already been signed by the Canadian Minister in Paris. Joint Letter of Instructions has been delayed owing to question raised by certain Dominion Governments as to distribution of unconditional annuities, but it is hoped solution will be found before Thursday.



His Majesty's Government in the United Kingdom would be glad to know whether His Majesty's Governments in the Dominions desire to take their share in mobilisation in accordance with agreed Table in draft Letter of Instructions. The proceeds payable to all parts of the British Empire will probably be about £5,250,000. The loan will be 5½ per cent issued at a price below par; the exact price not yet fixed.

We should also be glad to know whether the Dominion Governments desire to send separate representatives to Paris meeting or would prefer that representatives of the United Kingdom Treasury should be authorized to act on their behalf and to sign for them Contract with International Bank.

It will, of course, be understood that Creditor Governments which participate in mobilisation will cease to receive annually that fraction of their share in unconditional annuities which is required for service of that portion of loan represented by proceeds paid to them respectively.

Should be grateful for reply tomorrow if possible.

681.

*Le secrétaire, Haut commissariat, au secrétaire d'État  
aux Affaires extérieures*

*Secretary, Office of High Commissioner, to Secretary of State  
for External Affairs*

TELEGRAM 122

London, May 20, 1930

Your telegram No. 80. The Hague Protocol of 31st August, Annex 1, paragraphs 3, 4 and 7 determine amounts payable as unconditional annuities under the terms of the Young Plan, also contributions by France, Belgium and Italy. Article XII, Section C, Trust Agreement, sets up an agreed distribution of mobilisable portion of annuities between the Governments mentioned. In this Article of the Trust Agreement His Majesty's Government of the United Kingdom has obtained more favourable terms in respect of mobilisable portion and has agreed to share these terms with the Dominions. The discrepancy mentioned by you is explained by the fact that His Majesty's Government of the United Kingdom has obtained from France, Belgium and Italy 28.8 million Reichmarks which added to 55 million Reichmarks and considered by them as unconditional annuities which amount they refuse to distribute among the Dominions for the reasons given in my telegram No. 106. The 28.8 million Reichmarks represent difference between 55 million Reichmarks mentioned in Annex 1, paragraph 7 and 84 figure employed in Article XII, Trust Agreement. Hyde informs me that Mr. Larkin reported to the Prime Minister from The Hague position and views of His Majesty's Government here in letters of 4th August, 20th August and 22nd August.

Would appreciate instructions as to whether you wish me to sign letter of instruction with reservation similar to Australia as explained in my telegram No. 106 which is acceptable to the Government here. I have reported present position to Roy.

682.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 78

Ottawa, May 21, 1930

IMMEDIATE. SECRET. Reference your telegram Circular B.79 Secret 20th May. We have authorized High Commissioner's Office to sign Letters of Instruction with reservation similar to Australia and are taking up matters of difficulty by correspondence and expect to dispose of reservation at an early date. With regard to proposed contract relating to mobilization it would seem in view of attitude taken by French directors of the Bank to be desirable that Dominions should sign separately. Accordingly we are authorizing Canadian Minister at Paris to sign on Saturday.

683.

*Le ministre en France au secrétaire d'État aux Affaires extérieures  
Minister in France to Secretary of State for External Affairs*

DESPATCH 167

Paris, May 22, 1930

Sir,

Referring to your despatch No. 58 dated April 17th I have the honour to inform you that I have this day signed the trust agreement between the Creditor Governments and the Bank of International Settlements. The annexes to the agreement were not ready for signature and shall be signed in the course of the next week.

The letters of instructions were signed in London according to the information received from the High Commissioner for Canada.

I have etc.

PHILIPPE ROY

684.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

DESPATCH 290

Downing Street, May 30, 1930

SECRET

Sir,

I have the honour to acknowledge the receipt of your Secret despatch No. 147 of the 19th April with regard to the annuities payable by Germany in respect of reparations.

2. The question of Canada's share in mobilization of the unconditional annuities had already been raised with the Treasury by Colonel Reid Hyde, who was informed on the 2nd May that the Lords Commissioners of the Treasury agreed that Canada's share should be 0.565%.

3. The explanation of the figure 84 in Article XII of the Trust Agreement with Germany is that a concession was obtained whereby the British share in mobilization should be increased to take account of approximately 29,000,000 reichsmarks promised to Great Britain by the Hague Protocol of the 31st August 1929 as well as 55,000,000 reichsmarks allocated to the British Empire by the same Protocol. It will be appreciated that the mobilizable annuities allotted to the British Empire remain 55,000,000 reichsmarks but the rate at which it is mobilized is increased by giving an option to take 13.1% instead of 9% of each reparation loan.

4. As intimated in my telegram No. 57 of the 8th May, His Majesty's Government in the United Kingdom share the assumption in the last paragraph of your despatch.

I have etc.

PASSFIELD

685.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM B. 85

London, June 6, 1930

IMMEDIATE. CONFIDENTIAL. Conference of Bankers in connection with proposed Reparations Loan has proved unexpectedly protracted owing to difficulty of making technical market arrangements fit in with framework of The Hague Agreements. It is hoped that these difficulties will be overcome today or tomorrow and that a meeting will be held Tuesday, 10th June, to sign necessary documents, and that the Loan will be issued on the 12th June or 13th June. In accordance with authority already given documents will be signed on behalf of His Majesty's Governments in the Commonwealth of Australia, New Zealand and Union of South Africa by Mr. S. D. Waley, the United Kingdom representative, who has been in touch with Canadian Minister in Paris as to his signature.

It has now been agreed that London issue shall be amount required to produce net proceeds of £10,000,000 and that the whole of these proceeds will be retained by the several parts of the British Empire, a corresponding part of the British Empire share of annuities being allocated to service of London issue. His Majesty's Government in the United Kingdom assumes that His Majesty's Governments in the Dominions will desire that the £10,000,000 should be distributed in the same proportion as those laid down by joint Letter of Instructions to Bank for International Settlements and that the

Bank for International Settlements should be so informed not later than date on which loan is issued. We should much appreciate reply before Saturday, 7th June. To save time we would suggest that necessary communication should on this particular occasion be made to the Bank for International Settlements by United Kingdom Treasury acting on behalf of all concerned.

686.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 87

Ottawa, June 6, 1930

IMMEDIATE. CONFIDENTIAL. Your Circular B. 85 confidential 6th June. Canadian Government approves arrangement relating to mobilisation and participation in proceeds of London issue. The United Kingdom Treasury is authorized on behalf of the Canadian Government to make the necessary communication to the Bank for International Settlements in respect to distribution of proceeds of mobilization.

687.

*Le secrétaire d'État aux Affaires extérieures au ministre en France  
Secretary of State for External Affairs to Minister in France*

TELEGRAM 33

Ottawa, June 6, 1930

IMMEDIATE. Your No. 28 June 3rd. Desy is authorized to sign contract for mobilization of German Reparation Bonds.

688.

*Le secrétaire d'État aux Affaires extérieures au ministre en France  
Secretary of State for External Affairs to Minister in France*

TELEGRAM 34

Ottawa, June 7, 1930

IMMEDIATE. CONFIDENTIAL. Following agreements have been ratified by His Majesty's Government in Canada.<sup>1</sup>

1. The Agreement with Germany
2. The Arrangement between the Creditor Powers (Germany)
3. The Agreement with Austria
4. The Agreement with Bulgaria

<sup>1</sup> En vertu du décret C.P. 1281.

<sup>1</sup> Under authority of P.C. 1281.

## 5. The Agreement with Czechoslovakia

## 6. The Arrangement between the Creditor Powers (Austria, Hungary, Bulgaria—Liberation Debt)

These agreements were all signed at The Hague on the 20th January, 1930.

## 7. Agreements with Hungary signed at Paris on the 28th April.

You are authorized to notify the French Government immediately that the ratification of these Agreements has been effected and that the Instrument of Ratification will be forwarded as soon as possible.

689.

*Le sous-secrétaire d'État aux Affaires extérieures  
au secrétaire, Haut commissariat*

*Under-Secretary of State for External Affairs to Secretary,  
Office of High Commissioner*

Ottawa, June 27, 1930

Dear Mr. Pacaud,

I have the honour to acknowledge receipt of your letter, dated the 12th June, 1930, in which you give a full report relating to the question involved in the reservation made on behalf of the Canadian Government upon the signature of the Letter of Instructions to The Bank for International Settlements, in respect to German Reparations.

I note that the effect of the provisions of Article XII of the Trust Agreement is to accelerate the mobilisation of the British Empire unconditional annuities as compared with the other countries, but that it does not increase the total unconditional annuity beyond the fifty-five million Reichmarks provided for in the Young Plan, and especially referred to in Annex 1 of the Protocol of August 31st, 1929.

In view of the fact that the unconditional annuities payable to the British Empire are [not] increased beyond the fifty-five million Reichmarks provided for in Annex 1 to the Protocol, already referred to, it appears to be probable that the reservation made in respect to distribution of the unconditional annuities upon the signature of the Letter of Instructions to the Bank for International Settlements, in respect to German Reparations, will be withdrawn. However, before a formal withdrawal, it is desirable to ascertain what action the Australian Government is taking in this matter. We should be open to criticism if reservation were withdrawn and subsequently there was a new allotment to Australia. Accordingly, I should appreciate any information you could obtain on this point.

Yours sincerely,

O. D. SKELTON



690.

*Le secrétaire d'État aux Affaires extérieures au secrétaire,  
Haut commissariat*

*Secretary of State for External Affairs to Secretary,  
Office of High Commissioner*

TELEGRAM 104

Ottawa, July 2, 1930

Reference Dominions Office circular, Secret, B.98; you are authorized to discuss detailed texts of Trust Agreements (Bulgaria, Hungary, Czechoslovakia); and Letters of Instruction (Bulgaria and Czechoslovakia); with Treasury, and to sign Letters of Instruction (Bulgaria and Czechoslovakia). You should report results of your discussion of Trust Agreements to Canadian Minister, Paris, who has been authorized to sign. Despatch with formal authority follows.

691.

*Le secrétaire, Haut commissariat, au sous-secrétaire d'État  
aux Affaires extérieures*

*Secretary, Office of High Commissioner, to Under-Secretary of State  
for External Affairs*

London, August 29, 1930

Sir,

I have the honour to acknowledge your communication of the 28th July, relative to Instruments of Ratification of the Agreement between the Government of the Dominion of Canada and the German Reich.

This communication also transmitted a copy of the Instrument of Ratification to be exchanged for a similar document from the German Reich.

I beg to report that the Representative of the German Reich waited upon me, at this office on the 27th instant and we made the exchange as directed by our several Governments.

I enclose, herewith, the document<sup>1</sup> jointly signed and together with this, the Instrument of Ratification of the German Reich.

I have etc.

LUCIEN PACAUD

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<sup>1</sup> Non reproduit.

<sup>2</sup> Not printed.

692.

*Le secrétaire, Haut commissariat, au sous-secrétaire d'État  
aux Affaires extérieures*

*Secretary, Office of High Commissioner, to Under-Secretary of State  
for External Affairs*

London, August 29, 1930

Dear Dr. Skelton,

Referring to yours of the 27th June relative to the Trust Agreement with Germany and her creditors.

I would refer to the last paragraph of your letter and particularly to your observation relative to the question of the withdrawal of our reservation in the Letter of Instructions to the Bank for International Settlements covering the distribution of 55 million Reichmarks.

Sir Granville Ryrie has written, under date of the 28th August, as per enclosed copy<sup>1</sup>. With this I attach copies of the documents<sup>1</sup> to which he refers.

You will notice that he is anxious to secure, if possible, an agreed position with the other Dominions prior to the Imperial Conference. Under the circumstances, may I ask for your cabled instructions.

Regarding the additional unconditional annuity referred to on page 9 *Cmd.* 3589, being the excess over and above 84 million Reichmarks, I am informed that the annuity estimated for the purpose at 5 million Reichmarks per annum, was not objected to by the Dominions at the Hague Conference because it represented the interest on 100 million Reichmarks payable to the United Kingdom Government out of accumulated balances in the hands of the Agent General for Reparations and would supplement the short payment which the United Kingdom Government had received, as compared with the out payments, the United Kingdom Government had each year made to the Government of the U.S.A. on loan account.

This was considered as something that was a closed issue and, in that sense, not in the same category as an additional unconditional annuity payable to the United Kingdom by France, Belgium and Italy.

Yours sincerely,

LUCIEN PACAUD

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<sup>1</sup> Non reproduits.

<sup>1</sup> Not printed.

693.

*Le Haut commissariat au sous-secrétaire d'État aux Affaires extérieures*  
*Office of High Commissioner to Under-Secretary of State for External Affairs*

London, September 2, 1930

Sir,

Adverting to Mr. Pacaud's letter of the 29th ultimo relative to the Trust Agreement with Germany and her creditors and the reservation by Australia and Canada in respect thereto.

The Financial Adviser to Australia has made an amendment to the draft letter to the Chancellor of the Exchequer which accompanied the documents attached to Mr. Pacaud's letter and, as the paragraph so amended makes the position much clearer, I quote the change as under:

In getting that 55,000,000 R.M. out of the unconditional part of the annuity you added nothing to the total of unconditional postponable sums receivable by the British Empire *namely 409,000,000 R.M.*, you merely got, as to 55,000,000 R.M. a more satisfactory promise of payment; in getting the 28.8 million R.M. you did add something to the total of 409,000 [sic] R.M. receivable by the United Kingdom, and also you got the more satisfactory promise of payment. To any portion of the 28.8 millions of R.M. so added to the sums receivable by your Government, the Dominion could not justly make a claim *that would increase its pro rata share in the 53.3 millions of R.M. allotted to the Dominions.*

The amendment should replace the wording beginning "in getting" and closing "justly making a claim" on page 2 of the draft letter to the Chancellor.

Yours faithfully,

J. REID HYDE

694.

*Le secrétaire d'État aux Affaires extérieures au secrétaire,*  
*Haut commissariat*

*Secretary of State for External Affairs to Secretary,*  
*Office of High Commissioner*

TELEGRAM 123

Ottawa, September 17, 1930

IMMEDIATE. Your letter August 29th Mr. Reid Hyde's letter September 2nd. The questions involved in the Australian reservation are receiving consideration, but it will not be possible to arrive at a decision before the Conference.

## PARTIE 3/ PART 3

## DIVERS

## MISCELLANEOUS

695.

*Le secrétaire aux Dominions au Gouverneur général*  
*Dominions Secretary to Governor General*

TELEGRAM

London, February 17, 1926

CONFIDENTIAL. My despatch of January 9 (8)th No. 11 Fur Sealing Convention of 1911. Note received from the Japanese Ambassador intimating that the Japanese Government, being satisfied that the Convention has in many respects ceased to be responsive to the actual conditions of things, have decided to approach the Governments of all signatory Powers with a request for the holding of the Conference contemplated in Article XVI of the Convention, to consider and if possible agree upon a further extension of the Convention with such additions and modifications as may be desirable. Note adds that the Japanese Government will be happy to make suggestion in due course regarding date and place of the proposed Conference.

H.M. Government would be glad to receive by telegraph views of the Canadian Government on the Japanese Government's proposals. In this connection it may be desirable to add that as regards the position of Russia as one of the signatory Powers to the Convention, view of H.M. Government is that, while it cannot definitely be said, owing to the non-ratification of the General Treaty of 1924 with the Soviet Government, that the Convention is in force as between H. Majesty and the Soviet Union, general thesis observed by H.M. Government is that all Treaties and Agreements made with the former Imperial Russian Government remain binding on the Soviet Government now recognised as successors of the Imperial Government. See your telegram of August 13th 1924<sup>1</sup> Confidential and connected correspondence.

696.

*Le Gouverneur général au secrétaire aux Dominions*  
*Governor General to Dominions Secretary*

TELEGRAM

Ottawa, March 2, 1926

Your despatch 8th January No. 11 and your telegram 17th February—Modification of the Pelagic Sealing Convention, 1911—matter has been given

<sup>1</sup> Volume 3, document 842.

<sup>1</sup> Volume 3, Document 842.

consideration by the Department of Marine & Fisheries. The Canadian Government desires to express its readiness to participate in a conference for the revision of the Pelagic Sealing Convention of 1911 such as has been suggested by the Government of Japan, if in the opinion of His Majesty's Government, the diplomatic relations between the Soviet Union and the other powers concerned in the Convention will make it possible and advisable to hold such a conference in the near future.

In the event of holding such a conference, it is the opinion of the Canadian Government that Articles 10 and 11 of the Convention should be replaced by a provision to the following effect:

The United States agrees that the number of seals that will be killed annually on the Pribilof Islands, or any other islands or shores of the waters mentioned in Article 1, that are subject to the jurisdiction of the United States, shall not be less than eighty-five per cent of the three year old male seals hauling in such year, provided, however, that if the total number of seals frequenting the aforesaid islands or shores in any year fall below one hundred thousand, enumerated by official count, all killing except the number needed to supply food, clothing and boat skins for the support of the natives, may be suspended until the number of seals exceeds one hundred thousand, enumerated in like manner.

The United States further agrees that the seal skins taken annually under its authority shall be marketed in such state or states of preparation and at such place or places and in such number or numbers in each state of preparation at each place, as may be agreed upon from time to time by the Governments of the United States, Canada and Japan, and the United States agrees to account to the Governments of Canada and Japan for fifteen per cent each of the proceeds from the sale or sales of such skins, after deducting the costs that were incurred in preparing and marketing the skins from the time they were landed at a United States mainland port.

It is further considered that Articles 12 and 13 should be modified in a corresponding way.

697.

*Décret du Conseil*  
*Order in Council*

P.C. 346

March 17, 1926

The Committee of the Privy Council have had before them a report, dated 1st March, 1926, from the Secretary of State for External Affairs, with reference to a despatch from the Secretary of State for Dominion Affairs, dated 24th August, 1925, on the subject of the representation of Canada at the Third Pan Pacific Science Congress to be held in Tokyo in 1926.



The Minister, with the concurrence of the Acting Chairman of the Sub-Committee of the Privy Council on Scientific and Industrial Research, recommends that the invitation of the Government of Japan that Canada be represented at the Third Pan Pacific Science Congress to be held in Tokyo from October 27th to November 9th, 1926, be accepted; that Canada be officially represented at this Congress by the President of the National Research Council of Canada, and that he be accompanied by representatives from other Departments of the Federal Government which may be directly interested in the Congress and consider it advisable to send representatives thereto.

The Minister further recommends that the official representative of Canada at this Congress be authorized to invite the Congress to hold its fourth meeting in Canada during the year 1929.<sup>1</sup>

The Committee concur in the foregoing and advise that Your Excellency may be pleased to forward a copy hereof to the Secretary of State for Dominion Affairs.

All of which is respectfully submitted for Your Excellency's approval.

698.

*Le sous-secrétaire d'État aux Affaires extérieures au  
sous-secrétaire d'État par intérim aux Affaires extérieures*

*Under-Secretary of State for External Affairs to  
Acting Under-Secretary of State for External Affairs*

TELEGRAM

London, November 10, 1926

Dominions Office enquires whether Canadian Government desires invite Empire Delegates to International Radio Telegraph Conference Washington nineteen twenty-seven to meet Ottawa two or three weeks in advance see letter Harding thirtieth March and previous correspondence. British Government believes consideration of regulations framed by its Sub-Committee and appears communicated would be useful in determining attitude of various Empire Governments at Washington Conference. Please advise Marine and Fisheries and ask them inform us fully and frankly their attitude to suggestion also advise Department Marine probable agreement reached on principle each Dominion to control merchant shipping but desirable to co-ordinate legislation so far as possible and for this purpose special merchant shipping conference may meet London next year.<sup>2</sup>

<sup>1</sup> L'invitation fut déclinée. Voir le document 709.

<sup>2</sup> On trouvera au Chapitre II, Partie 2, les documents se rapportant à cette Conférence qui se tint en 1929.

<sup>1</sup> The invitation was refused. See Document 709.

<sup>2</sup> The documents dealing with this Conference, which was held in 1929, are to be found in Chapter II, Part 2.

699.

*Le sous-secrétaire d'État par intérim aux Affaires extérieures  
au sous-secrétaire d'État aux Affaires extérieures*

*Acting Under-Secretary of State for External Affairs to  
Under-Secretary of State for External Affairs*

TELEGRAM

Ottawa, November 16, 1926

Your telegram tenth. Marine Department thinks most desirable have preliminary meeting Empire delegates Radio Conference and that Ottawa most convenient place of meeting but undesirable give undue publicity such conference which if possible should appear to be only casual gathering delegates here. As our interests are and must continue to be somewhat interlocked with those of United States consider unwise create any impression that Empire delegates consolidating on any particular policy.

700.

*Le secrétaire aux Dominions au Gouverneur général  
Dominions Secretary to Governor General*

TELEGRAM

London, June 29, 1927

CONFIDENTIAL. My despatch of August 20th 1926, Confidential, Proposed Conference for the modification of the Fur Sealing Protection Convention. Information regarding the present position as between the United States and Japanese Governments has been communicated unofficially to the Foreign Office by the United States Embassy in London. Copy is being sent by mail. It is understood that the United States Government have felt unable to accept the Japanese suggestion of two Conferences referred to in previous correspondence, but they have ascertained that the main Japanese difficulty arises from the claim that the seals belonging to the herd of Pribyloff [*sic*] Islands are responsible for the damage to Japanese fishing interests. United States authorities are of the opinion that these seals do not migrate to Japanese waters, and they have accordingly informed the Japanese Government that in view of the marked difference between the views entertained by the authorities of the two countries on this question, the United States Government are prepared to co-operate with the Japanese in the investigation into migration and other pertinent facts relating to the fur seals of the North Pacific, especially the Pribyloff Islands herd.

It is thought that this proposal may be of interest to the Canadian Government, and the Secretary of State for Foreign Affairs would be glad to learn whether it is desired that he should endeavour to arrange to secure invitation for the Canadian Government to be represented in the proposed investigation.

Should be glad to receive reply by telegraph, as United States authorities have asked informally for any observations on the proposal at a very early date. Despatch follows.

701.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM

Ottawa, July 26, 1927

CONFIDENTIAL. Your telegram June 29, Conference for modification of Fur Sealing Protection Convention. While it is desired that treaty should be revised in certain particulars as already indicated when suitable time arrives, Canadian Government does not at present consider it necessary for Canada to take part in proposed investigation. If any unforeseen condition arises assume arrangements could be made to participate later.

702.

*Le secrétaire d'État aux Affaires extérieures au ministre des États-Unis*  
*Secretary of State for External Affairs to United States Minister*

Ottawa, August 5, 1927

Sir,

I have the honour to refer to your communication of July 5th to the Secretary of State for External Affairs, enquiring as to the names of the Canadian delegates to the International Radiotelegraph Conference to be held in Washington in October, 1927, and to state that the tentative list of Canadian delegates, which may be slightly altered within the course of the next ten days,<sup>1</sup> is as follows:

## Delegates:

Mr. A. Johnston, Deputy Minister of Marine, Ottawa (head of Canadian delegation),  
Mr. C. P. Edwards, O.B.E., Director of Radio, Department of Marine, Ottawa,  
Major W. A. Steele, M.C., Royal Canadian Corps of Signallers, Department of National Defence,  
Mr. Laurent Beaudry, First Secretary, Legation of the Dominion of Canada, Washington.

## Technical Advisers:

Mr. Donald Manson, Chief Inspector of Radio, Department of Marine, Ottawa,  
Mr. J. W. Bain, Radio Engineer, Department of Marine, Ottawa.

Accept etc.

[O. D. SKELTON]

for the Secretary of State  
for External Affairs

<sup>1</sup> Aucun changement ne fut apporté à ce tableau.

<sup>1</sup> No alteration in the list was made.

703.

*Le secrétaire d'État aux Affaires extérieures au ministre aux États-Unis*  
*Secretary of State for External Affairs to Minister in United States*

TELEGRAM

Ottawa, November 9, 1927

Please advise exact procedure proposed regarding voting in Radiotelegraph Conference particularly as to form of reference to Dominions and other British Empire units.

704.

*Le ministre aux États-Unis au secrétaire d'État aux Affaires extérieures*  
*Minister in United States to Secretary of State for External Affairs*

TELEGRAM

Washington, November 9, 1927

SECRET. Your telegram 9th November. Several proposals for votes in Radio Telegraphic Conference have been made and failed, the last proposal upon which the great powers seem to have been agreed was opposed by United States this morning. This proposal on the one hand included in preamble as contracting parties the names of all self-governing countries with addition of India, Tunisia and Morocco, and on the other hand made provision in Article 12 for votes for colonies proper. This would have given Great Britain one vote as a contracting party and one vote for colonies, with separate votes for Canada, Australia, New Zealand, South Africa, Irish Free State and India as contracting parties. The United States after first supporting this plan have intimated that they can no longer support it for fear of conflict in Senate on the ground that it allots eight votes to British Empire. The present situation is uncertain. At meeting of British Empire delegates summoned by Sir Esme Howard this morning, it was suggested that with Hoover's support Article 12 might be omitted from new convention and that question of votes at future Conferences might be left for later discussion. The meeting agreed that the heads of delegations of British Empire should again confer with chief of United States representatives. It is very unlikely that Hoover's suggestion will be supported generally. I shall keep you informed all developments.

705.

*Le ministre aux États-Unis au secrétaire d'État aux Affaires extérieures*  
*Minister in United States to Secretary of State for External Affairs*

TELEGRAM

Washington, November 14, 1927

SECRET. Following proposals regarding votes on questions will probably be accepted by Conference tomorrow. 1. There will be no enumeration of

Contracting Parties in preamble of Convention. 2. Article 12 will simply be deleted. 3. The signatures will be affixed in alphabetical order, the Dominions taking their places as separate self-governing countries, and Colonies properly coming under their metropolitans. Agreement seems unanimous on above. Only doubt is in minds of British Delegation whether India is to sign under Governments.

MASSEY

706.

*Le ministre des États-Unis au secrétaire d'État aux Affaires extérieures*

*United States Minister to Secretary of State for External Affairs*

No. 145

Ottawa, June 25, 1928

Sir,

I have the honor, on behalf of the President to extend to the Government of Canada an invitation to designate representatives to attend an International Conference on Civil Aeronautics, to be held at Washington December 12, 13, and 14, 1928. It is hoped that it may be found possible to designate one or more delegates to attend this Conference.

The Secretary of Commerce, under whose auspices the Conference is to be held, requests that an invitation be extended to one of the delegates thus appointed to present a paper on some phase of aeronautical development in Canada, and it is hoped that this paper may be received in Washington not later than October 1, if possible, in order that it may be printed for distribution at the meeting. The papers so presented by the delegates of the respective countries will not be read, but an opportunity for discussion will be afforded during the sessions.

During the week preceding the Conference, there will be held an international aeronautical exhibition at Chicago, Illinois, which has been arranged by the aeronautical industry of the United States, and plans have been made by the Department of Commerce for the provision of air transportation from New York to Chicago, and from there to Washington, via various points of interest.

Further detailed information regarding the Conference and the exhibition will be sent to the delegates when more definite plans have been agreed upon.

In view of the necessity for making various detailed arrangements for the gathering, I should be highly appreciative if I might be informed at an early date as to whether Canada anticipates being represented at the Conference.

I avail myself etc.

WILLIAM PHILLIPS



707.

*Le secrétaire d'État aux Affaires extérieures au ministre des États-Unis*  
*Secretary of State for External Affairs to United States Minister*

Ottawa, July 10, 1928

Sir,

With further reference to your note No. 145 of the 25th June last conveying an invitation to this Government to appoint representatives to attend an International Conference on Civil Aeronautics to be held at Washington in December next, I have the honour to inform you that the Government cordially accepts this invitation, and the names of the representatives appointed will be communicated to you at a later date.

Steps will be taken to prepare a paper such as suggested in the second paragraph of your note to be submitted before October 1st, and it is hoped that the further information promised as to the scope of the Conference and, if possible, an outline of the Agenda may be supplied at an early date.

Accept etc.

[O. D. SKELTON]

for the Secretary of State  
 for External Affairs

708.

*Le ministre aux États-Unis au secrétaire d'État aux Affaires extérieures*  
*Minister in United States to Secretary of State for External Affairs*

TELEGRAM

Washington, August 6, 1928

The Radio Commission announce that the Mexican and Cuban representatives, in addition to Canada, will come to Washington for the Conference on continental short wave allocation on the 15th August. State Department informs me that these discussions will probably now follow the meeting with the Canadian representatives on the 20th August.

709.

*Le secrétaire aux Dominions au secrétaire d'État*  
*aux Affaires extérieures*  
*Dominions Secretary to Secretary of State*  
*for External Affairs*

DESPATCH 377

Downing Street, September 5, 1928

Sir,

With reference to my despatch to the Governor General No. 358 of the 24th August, 1925, I have the honour to transmit the accompanying copy of

a note from the Netherlands Minister communicating an invitation to His Majesty's Government in Canada to be represented at the Fourth Pacific Science Congress to be held in the Netherlands East Indies in May, 1929.

2. I should be glad to learn what reply His Majesty's Government in Canada would wish to be returned to the invitation.

I have etc.

L. S. AMERY

710.

*Le chargé d'affaires aux États-Unis au secrétaire  
d'État aux Affaires extérieures*  
*Chargé d'Affaires in United States to Secretary  
of State for External Affairs*

DESPATCH 1340

Washington, September 14, 1928

Sir,

I have the honour to acknowledge the receipt of the amended Instrument of Ratification of the Radio Telegraph Convention, which you were good enough to send to me under cover of your despatch Number 407 of September 6th. 1928. On informing the Department of State that the Instrument of Ratification had been received, I was told that Canada was the first country to have notified the Government of the United States that it was prepared to ratify the Convention. Since the Convention cannot in any case come into force until January 1st. 1929, the Department of State would prefer that the Canadian ratification should not be deposited at the present time, since it was considered advisable for the Instruments of Ratification to be deposited by several countries simultaneously.

2. Since there does not appear to me to be any objection to a delay in depositing the Instrument of Ratification, I have confined myself to notifying the Secretary of State officially that I am in possession of the Instrument of Ratification, and that I shall be prepared to deposit it with him at his convenience.<sup>1</sup>

I have etc.

H. H. WRONG

711.

*Décret du Conseil*  
*Order in Council*

P.C. 1933

October 17, 1928

The undersigned has the honour to report that the Universal Postal Union, in which Canada ranks as a member of the first class, holds international conferences from time to time, to each of which Canada is entitled to send representatives.

<sup>1</sup> L'instrument fut déposé le 29 octobre 1928.

<sup>1</sup> The Instrument was deposited on October 29, 1928.

The last conference was held at Stockholm, Sweden, in 1924, and the next conference is called to meet in London, England, during the first half of the year 1929, on a date to be fixed by the Government of Great Britain.

It is customary for the delegates of Great Britain and the Overseas Dominions to hold a preliminary conference in England prior to the general conference of the Universal Postal Union, and it is proposed to hold such a preliminary conference prior to the approaching conference at London.

In view of the foregoing, the undersigned has the honour to recommend that Messrs. P. J. Veniot, Postmaster General, L. J. Gaboury, Deputy Postmaster General, and Arthur Webster, Secretary, Post Office Department, be appointed to represent Canada at the London Conference of 1929, and that authority be granted to issue a commission vesting them with power not only to take part in the debates at the congress, but also to vote thereat and to sign all necessary documents.

The undersigned also recommends that authority be granted to send to the congress an attache to be selected by the Postmaster General, to act as secretary to the Canadian delegation.

712.

*Le secrétaire d'État des États-Unis au ministre aux États-Unis*  
*Secretary of State of United States to Minister in United States*

Washington, December 7, 1928

Sir,

Referring to this Department's note dated August 9, 1928, and your Legation's reply dated August 15, 1928, concerning the Conference held at Washington from August 20 to August 25, between representatives of Canada, Cuba, and the United States with regard to the allocation of short wave radio channels on this continent, I have the honor to enclose a copy of the Preliminary Report,<sup>1</sup> dated August 25, 1928, prepared by the technical representatives of the three Governments dealing with this subject.

The Federal Radio Commission believes that it would be advisable to have a further conference between Canada, Cuba, Mexico, and the United States to study this subject and to consider proposals for modifying or amending the Preliminary Report of the Technical Committee. From the views expressed by you on November 29, 1928, it is understood that the Canadian Government desires to have an agreement prior to the Conference, to the effect that the United States and Canada shall have the same number of short wave frequencies. The Federal Radio Commission is of the opinion that all of the elements which are involved in the situation should be brought out in the discussions which would normally take place at the proposed Conference. It is pointed out by the Commission that at the preliminary conference Canada was ably represented by Commander C. P. Edwards, Director of Radio,

<sup>1</sup> Non reproduit.

<sup>1</sup> Not printed.

Department of Marine and Fisheries, and that after a very careful study of the problem he, in conjunction with technical advisers of the United States and Cuba, submitted the enclosed tentative report. The Federal Radio Commission states that the plan outlined by these technical experts is deemed to be very advantageous to Canada, considering such information as the Commission has regarding the construction work that has been completed or is in immediate prospect in Canada as compared with the status of similar work in the United States. As this report was intended to represent only a preliminary study of the questions, it was expected that more detailed discussion of the problem would take place at a future conference. It would seem appropriate that the proposed conference should begin at the point at which the technical experts adjourned their sessions in August last and consider any further proposals for amendment or changes in the plan suggested.

The Federal Radio Commission considers it necessary to proceed to allocate short wave channels in the United States in the near future. I hope that upon further consideration your Government will find it possible to have its representatives participate at an early date in a further discussion of the allocation of short wave channels on this continent with a view to reaching a satisfactory solution that will avoid interference and permit of the economical and full use of such radio channels.

Accept etc.

NELSON TRUSLEE JOHNSON  
for the Secretary of State

713.

*Le ministre aux États-Unis au secrétaire d'État des États-Unis*  
*Minister in United States to Secretary of State of United States*

No. 194

Washington, December 27, 1928

Sir,

I have the honour to refer to your note of December 7th. 1928, in which you inform me of the desire of the Federal Radio Commission that a further conference, in continuation of the conference which was held at Washington from August 20th. to August 25th, should be held at an early date to discuss the allocation of short wave radio channels on this continent. I now take pleasure in informing you that, in view of the considerations advanced in the note to which I have referred, His Majesty's Government in Canada desires to extend an invitation for this conference to take place at Ottawa, and suggests that January 9th. next would be a suitable date. His Majesty's Government in Canada is taking steps to ascertain the views of the Governments of Mexico and Cuba concerning representation at a conference on this date.

I shall be glad if you will be good enough to inform me as soon as may be convenient to you whether the proposal that the conference should meet at Ottawa on January 9th. is acceptable to the Government of the United States.

I have etc.

H. H. WRONG  
for the Minister

714.

*Le secrétaire d'État aux Affaires extérieures au ministre aux États-Unis*  
*Secretary of State for External Affairs to Minister in United States*

TELEGRAM

Ottawa, December 28, 1928

With reference to my telegram December 26th reassembling of adjourned short wave radio Conference. Will you convey informally to United States Government that inasmuch as the Government of Newfoundland will doubtless be interested in the allocation of the radio frequencies available for North America an invitation to send a representative to Conference has been addressed to that Government.

715.

*La légation britannique au Mexique au secrétaire d'État*  
*aux Affaires extérieures*

*British Legation in Mexico to Secretary of State for External Affairs*

TELEGRAM 10

Mexico, January 10, 1929

Addressed to Foreign Office and Ottawa. My telegram No. 3. Ministry of Foreign Affairs inform me verbally that owing to shortness of notice Mexican Government cannot find a representative with necessary technical knowledge and consequently have decided not to participate in Wireless Conference on January 21st.

G. OGILVIE FORBES

716.

*Le ministre britannique au Mexique au secrétaire d'État*  
*aux Affaires extérieures*

*British Minister in Mexico to Secretary of State*  
*for External Affairs*

TELEGRAM 14

Mexico, January 23, 1929

Addressed to Foreign Office and Ottawa. My telegram No. 10. Mexican Government now inform me that they could send two able delegates to Ottawa by February 15th, if Wireless Conference has not already ended. What shall I reply?

OVEY



717.

*Le secrétaire d'État aux Affaires extérieures  
au ministre britannique au Mexique*

*Secretary of State for External Affairs to British Minister in Mexico*

TELEGRAM

Ottawa, January 26, 1929

Your telegram No. 14 of the 23rd. instant. In view of intimation contained in your telegram No. 10 of the 10th. instant, no action was taken to postpone the date of reassembling of Conference beyond the twenty-first. Conference reassembled on that date and sessions were concluded yesterday. Proposals for division of short waves were put forward for discussion but final action thereon was not taken. The Canadian delegation undertook to communicate their conclusions to the United States authorities not later than February 1st. These conclusions will at the same time be communicated to the Mexican Government. Please convey to Mexican Government the regret of the Canadian Government that they were not represented at the Conference and add that if there had been any intimation in the previous telegram that they might find it convenient to send representatives at a later date, a proposal to postpone the date of opening would have been at once suggested to the other Governments interested.

718.

*Le secrétaire d'État aux Affaires extérieures au ministre des États-Unis  
Secretary of State for External Affairs to United States Minister*

No. 16

Ottawa, February 28, 1929

Sir,

I have the honour to acknowledge your Note of February 26th, 1929, regarding the recent Short wave Radio Conference at Ottawa.

It is gratifying to the Government of the Dominion of Canada to learn that the Government of the United States approve the recommendations of the delegates at the Conference. The Canadian Government have pleasure in stating that they also accept these recommendations.<sup>1</sup>

It is noted that your Government will announce the agreement effective March 1st, 1929. I have the honour to request that you be good enough to inform them that we will accordingly announce the agreement as effective on the same day.

Accept etc.

O. D. SKELTON

for the Secretary of State  
for External Affairs

<sup>1</sup> Par la suite, on annonça que ces avis avaient reçu l'agrément de Cuba et de Terre-Neuve.

<sup>1</sup> Subsequent communications announced the acceptance of the recommendations by Cuba and Newfoundland.

719.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 59

Ottawa, April 4, 1929

Your despatch No. 377, 5th September, 1928. Canadian Government has pleasure in accepting invitation from the Netherlands Government to take part in the Fourth Pacific Science Congress to be held in the Netherlands East Indies in May, 1929. The representatives will be Professor C. McLean Fraser, Head of the Department of Zoology, University of British Columbia, and Chairman of the Associate Committee on Oceanography of the National Research Council of Canada, and Mr. Diamond Jenness, Chief of the Division of Anthropology of the National Museum of Canada and Vice-President of the American Anthropological Association, sailing Vancouver April 6th. Please advise Netherlands Government also that the Canadian Government proposes to invite the Association to hold the Fifth Congress in Canada in 1932.

720.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

DESPATCH 249

Downing Street, May 3, 1929

Sir,

I have the honour to state for the information of His Majesty's Government in Canada that the International Commission for Air Navigation has decided to convene an Extraordinary Session in Paris at the end of May, 1929, for the purpose of considering the objections raised by various States who have hitherto abstained from adhering to the Convention of 1919 for the Regulation of Aerial Navigation, and of removing, so far as may be possible the obstacles inherent in the Convention itself which prevent their adherence, in the hope that the number of States who are parties to the Convention may be considerably increased and that it may definitely be established as the sole universal code of international civil air regulations.

2. To this Extraordinary Session delegates of non-contracting States in addition to the nominated representatives of contracting States have been invited. It is understood that the decision of the International Commission to hold this meeting originated out of an inspired Article written by Dr. Wegerdt of the German *Reichsverkehrsministerium*, and since approved by the German Government in which he voiced the objections of Germany to the Convention as it stands and definitely suggested the desirability of its revision with the objects stated above.

3. The views of others of the non-contracting States have not yet been formally communicated to the Commission, but it is known that their objections coincide with those of Germany on certain points in the Convention.

4. A copy of Dr. Wegerdt's Article prefaced by a note by the Secretary General of the International Commission for Air Navigation is enclosed,<sup>1</sup> together with a short summary of the subject matter of the article. In the meantime the points raised in the Article are being closely examined in the Air Ministry and it is hoped to transmit a further communication on the subject for the information of His Majesty's Governments in the Dominions as soon as this examination has been completed.

5. I should be grateful if I might be informed by telegraph of any observations which His Majesty's Government in Canada may desire to offer in the matter.

I have etc.

L. S. AMERY

721.

*Le Président, Conseil national de la Recherche, au  
sous-secrétaire d'État aux Affaires extérieures*  
*President, National Research Council, to Under-Secretary of State  
for External Affairs*

Ottawa, May 28, 1929

Dear Dr. Skelton,

Referring to your letter of March 28th, I have pleasure in informing you that I have just received a cable from Prof. C. McLean Fraser, who is one of the two official representatives from Canada in the Fourth Pacific Science Congress, which is being held at Java during the present month, advising that the Pacific Science Association has accepted the invitation of the Government of Canada to hold its Fifth Pacific Science Congress in Canada in the year 1932.

I assume that it will be necessary to publicly announce the acceptance of this invitation. Pending instructions from your Department, no action has been taken in this matter.

Yours sincerely,

H. M. TORY

722.

*Le Haut commissaire au secrétaire d'État aux Affaires extérieures*  
*High Commissioner to Secretary of State for External Affairs*

TELEGRAM 47

London, May 30, 1929

Canada elected by Postal Congress this morning to Preparatory Commission for next Congress thus becoming member of Postal Executive for next five years.

<sup>1</sup> Non reproduit.

<sup>1</sup> Not printed.

723.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 103

Ottawa, June 4, 1929

Your despatch No. 249 of the 3rd May, 1929, Convention for Regulation of Aerial Navigation. Memorandum of Dr. Wegerdt has been given consideration by technical officers. It is considered that importance of obtaining general agreement on international flying is obvious and Canada's juxtaposition to the United States makes it desirable for both countries to adhere to a common convention. As regards registration it is suggested that aircraft used only for owner's private purposes might be registered by domicile, not nationality, in which case such aircraft could not engage in international flying. It is considered that aircraft used commercially should be governed by nationality of owner, as at present. Certification of airworthiness is considered most important. Common standards essential so that international recognition may be given to all certificates. The Government of the country of manufacture should be responsible for primary certification of airworthiness of all aircraft.

The other questions raised are largely matters of definition. It is agreed that the Convention needs amendment in some particulars to make meaning clearer, to remove clauses relative to ex-enemy countries, and to take advantage of experience gained since it was drafted. Canadian Government would be prepared to concur in recommendations of the Air Ministry on such points.

724.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM 83

London, June 4, 1929

IMMEDIATE. CONFIDENTIAL. My telegram 25th[27th] May, No. 75, International Commission for Air Navigation. It is thought that forthcoming extraordinary meeting provides suitable occasion for raising the question of voting power under Article 34, and it is suggested that opportunity should be taken to press for amendment of Convention to provide for separate votes for the United Kingdom, Dominions Members of the League of Nations, and India. In this connection see Governor General's telegram of the 9th June, 1923, Confidential. It is understood that number of countries parties to the Convention is now 26.

Should be grateful for views of His Majesty's Government in Canada on this point as soon as possible. If proposal is to be made it is for consideration

whether it would not be desirable that if possible each Dominion entitled to send representative should do so on this occasion. Similar suggestion is accordingly being made to other Dominion Governments.

725.

*Le secrétaire d'État aux Affaires extérieures au ministre en France*  
*Secretary of State for External Affairs to Minister in France*

TELEGRAM 35

Ottawa, June 7, 1929

IMMEDIATE. Following for Dupuy. An extraordinary session of International Air Navigation Commission is to be held at Paris beginning 10th June and lasting a week to consider objections raised by states which have hitherto abstained from adhering to the International Air Navigation of 1919 and to remove as far as possible obstacles preventing such adherence. You have been appointed as Canada's representative on the Commission in accordance with Article 34 of the Air Convention so that you may attend this session. Squadron Leader Stevenson, Canadian Liaison Officer at British Air Ministry London, will accompany you as technical adviser but as he is not fully informed in matters of civil aviation you should also consult the British representative Sir Sefton Brancker who has heretofore acted for us on the Commission and is thoroughly cognizant of our attitude. In case you have no copy of Air Convention one could probably be obtained from Office of the Commission 20 Avenue Kléber Paris. High Commissioner in any case is being asked to forward you one from London. Your attention is directed specially to Article 34 and other Articles referred to therein dealing with the duties of the Commission. Your attendance as observer at Conference High Power Electric Systems will probably be interfered with but this cannot be avoided. It is intended to urge amendment of Article 34 of Convention so as to provide that United Kingdom, Dominions Members of the League of Nations, and India shall have separate votes instead of one for all as now provided. Number of adhering states has now reached 26 so lessening objection to greater number of British votes. View of the Canadian Government is that position of Canada in respect of representation on Commission should correspond to her position in League of Nations. A phase of international regulation of air navigation considered of particular moment by Canadian Government is the certification of aircraft for airworthiness. This matter has caused peculiar difficulty because while Canada manufactures certain proportion of her own aircraft, aircraft industry here is not yet large enough to supply all our needs, aircraft being imported for commercial use from Great Britain, United States, France and Germany. These are not built to any one standard and are sold in competition with those of Canadian manufacture. If the question arises of a common standard to which all aircraft should as far as possible conform Canadian experience in the past and knowledge of international standards and of British and American practice might be of considerable value to any Committee appointed for discussion of the matter.



It seems desirable therefore that Canada should be directly represented on such committee and if its formation is suggested direct representation of Canada on it should be urged. Your appointment has been notified by telegraph to the Secretary General of the Commission.

726.

*Le secrétaire, légation en France, au sous-secrétaire  
d'État aux Affaires extérieures*

*Secretary, Legation in France, to Under-Secretary of State  
for External Affairs*

DESPATCH 183

Paris, June 21, 1929

Dear Sir,

Following your instructions of June 8th, concerning the Extraordinary Session of the International Air Navigation Commission, I have the honour to send you herewith a memorandum on Article 34.

As to the question of a common standard for commercial aircrafts, it has not been raised during the Conference, as members of the I.C.A.N. are in general opposed to it.

I am etc.

PIERRE DUPUY

[PIÈCE JOINTE/ENCLOSURE]

*Mémorandum du secrétaire, légation en France*

*Memorandum by Secretary, Legation in France*

The Amendment of Section 34, Paragraph 5, of the I.C.A.N. in order to obtain a separate vote for the Dominion of Canada, South Africa, Ireland, Australia, New Zealand and India has been proposed by the Delegation of Great Britain, according to the notice attached thereto. It has been left in abeyance by the Conference on the following grounds:

1. Under Article 5, of the I.C.A.N., any proposal must be forwarded by the General Secretary to the members of the Commission forty-five days before the opening of the next Session.

2. The extraordinary Session of June 10th of the I.C.A.N. has been decided for the purpose of permitting non-contracting States to propose amendments which would, if adopted, incite them to join the I.C.A.N.

3. The proposed Amendment to Article 34 involved the question of majority in the I.C.A.N. and the Delegations had no instructions from their Governments on the matter.

It would have perhaps been better if the question of the separate vote had been left entirely with the Dominions and if Marshal Sefton Brancker had not

supported the proposition by a long statement pointing out that in view of the adherence of the hitherto non-contracting States to the Convention, it was desired that a separate vote be given to the British nations of the Commonwealth. The impression made on the different delegations was not at all favourable. If it had been only for Canada, the amendment would have passed without any discussion, but it will certainly take some time to get the seven votes. At the next meeting of the I.C.A.N., the proposal might be limited to Canada, Ireland, and South Africa who seem to have a better chance of success, as they have already been represented independently at Meetings of the I.C.A.N. As to India, she was represented by Colonel F. C. Shelmerdine who, as every one knew, had been assistant to Sir W. Sefton Brancker until two months ago at the Air Ministry in London. Sir Sefton Brancker was also acting as delegate for New Zealand and Australia.

The general impression was that if these three last countries were granted a separate vote they would always confirm the views of the British Delegate and strengthen Great Britain's influence in the I.C.A.N.

It might be advisable, in order to obtain a favorable decision from the outstanding countries, to set forth our position through diplomatic channels in Washington, Tokio, Rome, Madrid and Paris, before the next Meeting.

PIERRE DUPUY

727.

*Mémoire du Conseiller*

*Memorandum by Counsellor*

CONFIDENTIAL

Ottawa, September 25, 1929

The 1919 Convention on Aerial Navigation and its annexes have from time to time been amended, amendments to the Articles of the Convention usually taking the form of a protocol. According to Article 34 of the Convention, modifications of the annexes may be made by the International Commission for Air Navigation (which was established by the 1919 Convention), but modifications of the Articles of the Convention itself must be formally adopted by the Contracting States before they become effective.

The Protocol, which was recently signed at Paris on behalf of Canada, raises certain points which require consideration.

Observations regarding signature and authority to sign

Before considering these points, it may be observed that this Protocol was signed for Canada (and other Dominions) by Sir Sefton Brancker, the representative of Great Britain. Mr. Dupuy, who was appointed our delegate, should have signed the Convention and it is difficult to understand, in view of the instructions given to him in the telegram No. 35 of the 7th June, 1929, why he allowed Sir Sefton Brancker whom he was instructed to consult, to sign on behalf of Canada. The Irish delegate signed the Protocol on behalf of

his Government. It may be observed also that there was no Order-in-Council appointing Mr. Dupuy and authorizing him to sign the Protocol. In this connection, it should be remembered that in the past Protocols embodying amendments to the Convention were signed by Mr. Larkin and that the authorization to do so was given by Order-in-Council. This formality, however, is not absolutely essential.

#### Point as to ratification

As the situation now stands, one of the questions to consider is in regard to ratification of the Protocol. As already stated, modifications embodied in the Protocol must be formally adopted by the Contracting States, and Canada is considered to be a Contracting State for the purposes of the Convention (Art. 40), although she has no separate voting power on the Commission for Air Navigation (a matter which will be examined later in this Memorandum).

The practice in regard to ratification, as far as Canada is concerned, in connection with this Convention, seems to have been to let the British Government take care altogether of the ratification procedure on behalf of the whole British Empire. As will be seen later when we examine the question of separate voting power for Canada, there may have been some apparent justification for this in the fact that under the Convention Great Britain, the Dominions and India taken together have only one vote on the Commission. It seems, however, that at the present time this practice should be discontinued and that Canada herself should undertake the office of approving amendments of this kind.

When therefore the time comes to ratify the Protocol, we should have an Order-in-Council passed to that effect and inform London accordingly. It should be remembered that this is a case of Ratification by the King. Consequently there arises a question as to a separate instrument of ratification.

#### Point as to possibility and advisability of refusing to ratify

The question has been raised as to whether we could and should refuse to ratify the Protocol in question because Canada has no voting power on the Commission. Now that the Protocol has been signed on our behalf, it does not appear that a refusal on our part would be warranted unless there were very exceptional reasons, which apparently do not exist.

Refusal to approve a document which has been formally signed by an official agent would constitute an attitude which we could not possibly adopt without most serious consideration. We might as well decide at once against such a course.

#### Point as to separate voting power

The question of voting power is a difficult one. The provisions in Article 34 regarding this question always considered Great Britain, the British Dominions and India as counting for only one State and entitled to only one vote. A revision of that Article was made in 1923 but did not alter the situa-

tion in this respect. Canada, however, gave it to understand that when the number of members on the Commission would be somewhere about thirty they would ask for a separate vote. (Curiously enough, this Convention which considers Great Britain, the Dominions and India taken together as entitled to only one vote, stipulates in Article 40 that "the British Dominions and India shall be deemed to be States for the purposes of the present Convention.")

There is no doubt that the present situation should be changed and that it cannot be allowed any longer to stand as it is. The question is as to how the change should be made and how to have it approved by the Commission. The British Government suggest, in their recent confidential despatch No. 80 of the 4th September, 1929, that a joint note should be addressed to the Commission asking for separate votes (seven votes altogether). That note is carefully drafted and may be taken to cover the ground fairly well. It seems doubtful, however, whether the idea of a joint note is acceptable. It would appear to be preferable to dissociate ourselves and, adopting substantially the same note, take the case in our own hands. Attached hereto are a draft note which I have prepared, and a draft note of reply to Dominions Office.<sup>1</sup>

#### Difficulty of situation as to voting power

To understand the difficulty of the situation, it is sufficient to recall what happened during the Washington Conference on Radiotelegraphy in 1927. At the very outset, it was realized that Article 12 of the 1912 Convention which left Canada in a colonial status, had to be revised. The process of revision raised the whole question of voting power and—what became more important in this connection—the question of the number of votes which certain groups of States (for instance the British Empire) would happen to have if each country was given a vote. The problem of arriving at a formula loomed very large during the whole Conference and caused many anxieties to all those (in particular the United States) who wished the Conference to be a success. It gave rise to many *pourparlers*. Several proposals were put forward during the negotiations and none proved to be satisfactory to the extent of meeting the wishes of any majority. To avoid wrecking the Conference, it was finally decided to drop the old Article 12 entirely, to do away for the present in the Convention with anything tending to create dissatisfaction in this respect, and the problem was left for decision at the next Conference in 1932. As a matter of fact, during the 1927 Conference, each country (self-governing country) represented effectively voted. Inevitably the whole problem will be revived at the opening of the 1932 Conference.

It is important to bear in mind that the right of Canada to a separate vote as a State or self-governing country was not contested. We might say that it was unanimously conceded as a matter of principle. It must not be forgotten, either, that all the difficulties which arose were in regard to groups of States or self-governing countries thus obtaining a certain number of votes which might be considered as forming a "bloc" of votes compared with other

<sup>1</sup> Non reproduites.

<sup>1</sup> Not printed.



similar groups obtaining, in accordance with the formula, a smaller number of votes. These difficulties will arise again. But they should be faced, as far as Canada is concerned, and we should not suffer ourselves to appear behind in progress because of other Dominions or countries, for instance India, not being in the same important position as Canada.

It seems, therefore, that the time has come when Canada should make a stand for the principle of "one State or one self-governing country, one vote", and refuse to participate in a Conference in which her status is placed in doubt by the fact that she has not a separate vote. We have nothing to apprehend, since her attitude will no longer be attacked. The only danger of attack and of possible defeat would come from our taking a position which would indicate that we form a collective bloc in the Empire. In other words, we must fight our own battle on this ground. And fight it alone and only for ourselves and we will win everywhere. But if we associate ourselves with the rest of the Empire we weaken our position and, in the eyes of certain Big Powers, reduce it to that of the smallest of the other Dominions or even to that of India. We will then find certain European nations reluctant to accept our claim from the very fact that such acceptance would imply an acceptance of any other similar claim on the part of any one of the other Dominions and even of India. These brief observations are the result of the international psychology found (*de visu*) to have existed at the 1927 Conference at Washington.

L[AURENT] B[EAUDRY]

728.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM B. 167

London, November 9, 1929

IMMEDIATE. CONFIDENTIAL. My despatch 4th September, Confidential, Dominions Treaty No. 80. International Air Navigation Convention. Commission meets in Paris 10th December. United Kingdom will be represented as usual by Brancker but while His Majesty's Government in the United Kingdom would be happy to arrange if desired that he should also represent His Majesty's Governments in the Dominions it is felt that in view of the importance of the proposals for the allocation of separate voting power to various parts of the British Empire it would be very desirable that if possible Dominion Governments should exercise existing rights of separate representation on this occasion.

As regards proposed joint notes on above subject it has been suggested by His Majesty's Government in the Irish Free State that presentation of the joint notes in the circumstances might be used as argument against claims for separate voting power and that best procedure to secure desired end would be presentation of separate notes by each part of the Empire claiming separate votes. His Majesty's Government in the United Kingdom are inclined to



agree that weight attaches to above suggestion and would be glad to learn at the earliest possible date whether His Majesty's Governments in the other Dominions would wish separate notes in similar terms to be presented. In that event, as time would not permit transmission of notes from the Dominions and the subsequent circulation by the Commission before the next Session opens, it might be found convenient that High Commissioners in London should be instructed to prepare and sign notes in the form enclosed in my despatch *mutatis mutandis* for transmission to the Secretary of the Commission. If this course is agreed to, High Commissioners to whom copies of this telegram is being sent, would be supplied with necessary material. If notes are to be circulated in time it is necessary that they should reach the Secretary of the Commission by 16th November and I should be grateful for earliest possible reply both as to representative and as to procedure in presentation of notes.

729.

*Le secrétaire général, Commission Internationale de Navigation Aérienne,  
au sous-secrétaire d'État aux Affaires extérieures*

*Secretary General, International Commission for Air Navigation,  
to Under-Secretary of State for External Affairs*

Paris, November 22, 1929

Sir,

I have the honour to acknowledge receipt of your telegram dated 18th November and your letter dated 16th November 1929 (London) containing the Note of the Canadian Delegation on the question of Votes on the International Commission for Air Navigation.

This document, translated and reproduced in the form as enclosed herewith, (Annex P) has been addressed to all the Members of the Commission.

I have etc.

ALBERT ROPER

[PIÈCE JOINTE/ENCLOSURE]

*Le sous-secrétaire d'État aux Affaires extérieures au secrétaire général,  
Commission Internationale de Navigation Aérienne*

*Under-Secretary of State for External Affairs to Secretary General,  
International Commission for Air Navigation*

[TRADUCTION]

[Londres,] le 16 novembre 1929

1. L'article 34 de la Convention portant réglementation de la Navigation Aérienne signée à Paris en date du 13 Octobre 1919 institue la Commission Internationale de Navigation Aérienne et établit la composition de cette organisation.

Un paragraphe dudit article se lit ainsi:

Chacun des cinq premiers États (La Grande-Bretagne, avec ses Dominions et l'Inde, comptant à cette fin comme un État) aura le plus petit nombre entier de voix tel que, ce nombre étant multiplié par cinq, le résultat obtenu dépasse d'au moins une voix le total des voix de tous les autres États contractants.

Tous les États autres que les cinq premiers auront chacun une voix.

2. Cette distribution des voix présentant, pour des raisons évidentes, des objections sérieuses, a été modifiée par un Protocole signé à Londres en date du 30 Juin 1923, et entré en vigueur le 14 Décembre 1928.

Le texte révisé, qui est encore en vigueur, stipule que:

Chaque État représenté à la Commission (La Grande-Bretagne avec ses Dominions et l'Inde comptant à cette fin pour un État) aura chacun une voix.

3. Bien que des diverses parties de l'Empire britannique aient le droit, conformément aux termes de l'article 34 de la Convention, d'envoyer en tout sept représentants aux sessions de la Commission (un pour la Grande-Bretagne et le Nord de l'Irlande, un pour le Dominion du Canada, un pour le Commonwealth d'Australie, un pour le Dominion de Nouvelle-Zélande, un pour l'Union Sud-Africaine, un pour l'État Libre d'Irlande et un pour l'Inde), l'allocation d'une seule voix a été acceptée afin de faciliter un changement désirable apporté à un système de vote plaçant la majorité des voix à la disposition des représentants de «seulement cinq États» (tels qu'ils sont susvisés).

Une des considérations ayant influencé la décision d'accepter l'arrangement relatif à la nouvelle distribution des voix était que le nombre des états parties à la Convention était encore relativement faible et que sept voix pour toutes les parties de l'Empire britannique auraient pu paraître disproportionnées. Il est à noter toutefois que le Canada, en consentant à ratifier le Protocole, du 30 Juin 1923, fit observer qu'il demanderait une voix indépendante dès que le nombre total des États contractants atteindrait trente.

4. A la majorité des précédentes sessions de la Commission, le Vice-Maréchal de l'Air Sir W. Sefton Brancker a agi en tant que représentant du Canada et des autres Dominions et, récemment aucune difficulté insurmontable ne s'est élevée relativement à l'expression des désirs des différents membres du Commonwealth Britannique des Nations au moyen d'une seule voix.

5. Toutefois la position a changé avec le développement de l'aviation Civile au Canada à la fois dans son étendue et dans la variété de ses activités. L'expansion de la navigation aérienne depuis la ratification du Protocole de 1923 a été rapide et continue. L'emploi des avions pour le transport de passagers, de courrier et de fret, pour le travail général d'exploration dans les districts inhabités et pour les investigations minières pour les relevés topographiques par la photographie aérienne, pour les patrouilles au-dessus des zones forestières en vue de leur protection contre l'incendie, et pour de

*nombreux autres buts, a augmenté dans une telle mesure que le Canada figure maintenant parmi les pays de premier plan pour ce qui est de l'aviation en général et il occupe la toute première place dans plusieurs branches spéciales. Un des résultats de ce développement a été un intérêt accru pour les activités de la Commission Internationale de Navigation Aérienne et un désir d'exercer le droit de représentation séparée au sein de cette organisation. La présence d'un représentant séparé du Canada à la récente Session extraordinaire de la Commission montre qu'il en est ainsi.*

*Dans les conditions géographiques et économiques spéciales qui existent au Canada de nombreux problèmes surgissent et demandent un examen et une solution distincte. Il est évident que des règlements convenables pour d'autres parties du Commonwealth Britannique de Nations peuvent ne pas convenir au Canada.*

6. *En conséquence, à la Session extraordinaire de la Commission tenue à Paris en Juin 1929, l'occasion a été utilisée de soulever la question d'un amendement à l'article 34 pour permettre la représentation distincte et adéquate de chaque membre du Commonwealth Britannique.* La discussion a été reportée jusqu'à la session de la Commission devant avoir lieu à Paris en décembre 1929.

7. La position et la relation mutuelle du Royaume-Uni et des Dominions ont été récemment définies à la Conférence Impériale de Londres de 1926 dans les termes suivants:

Ce sont des Communautés autonomes au sein de l'Empire britannique jouissant d'un statut égal, nullement subordonnées l'une à l'autre dans un domaine quelconque de leurs affaires intérieures ou extérieures bien que ces communautés soient unies par une même fidélité à la Couronne et librement associées comme Membres du Commonwealth britannique des Nations.

En particulier dans le Dominion du Canada et dans chaque Dominion l'administration et le contrôle de l'aviation civile relèvent entièrement de chaque Gouvernement séparé et sont indépendants de l'administration et du contrôle de toute autre partie du Commonwealth Britannique de Nations.

On peut, en outre, souligner que le Canada et les autres membres du Commonwealth Britannique de Nations étaient séparément représentés à Paris lors de la rédaction de la Convention Internationale portant réglementation de la navigation aérienne, qu'ils signèrent séparément ladite Convention, et que leur assentiment dût être obtenu avant que la Convention fût ratifiée par sa Majesté le Roi au nom de toutes les parties de ses Dominions.

En outre leur statut à l'égard de la Convention est clairement défini par l'article 40 de la Convention elle-même, dans les termes suivants:

Les Dominions britanniques et l'Inde seront considérés comme des États, aux fins de la présente Convention.

8. Aussi longtemps que le Canada et les autres membres du Commonwealth Britannique de Nations n'auront pas de voix séparées au sein de la Commission Internationale de Navigation Aérienne, leur position sera inférieure à celle d'autres États qui sont parties à la Convention attendu que ceux-ci ont

la faculté d'exprimer, par leurs voix individuelles, leur assentiment ou leur dissentiment lors de la discussion des décisions à prendre par tous les autres États représentés.

9. L'allocation de voix séparées au Canada ainsi qu'au Royaume-Uni, aux autres Dominions, et à l'Inde, au sein de la Commission Internationale de Navigation Aérienne ne fera que réaffirmer les principes appliqués par la Société des Nations sous l'autorité de laquelle est placée la Commission en vertu de l'article 34 de la Convention.

*Le Canada, les autres Dominions et l'Inde*, comme les autres Membres de la Société des Nations sont éligibles aux sièges non-permanents du Conseil de la Société (un de ces sièges étant actuellement occupé par le Canada) et ils ont des voix séparées au sein de l'Assemblée de la Société.

10. Dans ces conditions le Gouvernement de Sa Majesté dans le *Dominion du Canada*, en tant que représentant un des États contractants au sens de la Convention, présente la demande que des voix individuelles *soient accordées à chacun des États suivants*:

1. Royaume-Uni de Grande-Bretagne et d'Irlande du Nord (y compris toutes les parties de l'Empire britannique qui ne sont pas des membres séparés de la Société des Nations).(1).
2. Dominion du Canada.
3. Commonwealth d'Australie. (1).
4. Dominion de la Nouvelle-Zélande.(1).
5. Union Sud-Africaine.(1).
6. État Libre d'Irlande.
7. Inde.

(1) Ces expressions doivent être considérées comme comprenant les territoires sous mandat administrés par les divers Gouvernements.

O. D. SKELTON

730.

*Le ministre en France au secrétaire d'État aux Affaires extérieures*  
*Minister in France to Secretary of State for External Affairs*

TELEGRAM 59

Paris, December 11, 1929

Separate vote granted this morning Wednesday unanimously to Dominions, India and the Irish Free State by International Commission on Air Navigation.

731.

*Le secrétaire d'État aux Affaires extérieures au ministre en France*  
*Secretary of State for External Affairs to Minister in France*

DESPATCH 16

Ottawa, February 7, 1930

Sir,

I have the honour to state that the communications between the International Commission for Air Navigation and Canada have thus far been habitually exchanged through the British Government. As you are aware, under Articles 34 and 40 of the convention there seems to be no reason why this practice should be adhered to. Furthermore, it would be more convenient if these communications were exchanged direct or, still preferably, through your Legation.

It is desired that you take up this matter with the Secretary of the Commission with a view to establishing direct communication, or communication through your Legation, as is done in the case of the other contracting States.

I have etc.

O. D. SKELTON  
for the Secretary of State  
for External Affairs

732.

*Le sous-ministre des Postes au sous-secrétaire d'État*  
*aux Affaires extérieures*  
*Deputy Postmaster General to Under-Secretary of State*  
*for External Affairs*

Ottawa, June 9, 1930

Dear Dr. Skelton,

With reference to previous correspondence, I enclose translation from the Spanish of a letter<sup>1</sup> received from the Director of the International Office of the Pan American Postal Union, setting forth the desirability of Canada's entry into the Pan American Postal Union, and asking us to let him know if we are willing to do so.

I may say for your information that the Postmaster General has already approved of definite negotiations being entered into along these lines. As we understand it, the Pan American Postal Union has for its object, reduced postage rates throughout the Americas, all the countries of the two continents except Canada having already joined the Postal Union. The present letter of invitation, which has come to us quite unsolicited, presents an opportunity for Canada's entry into the Postal Union which, for commercial reasons, she should take advantage of immediately.

<sup>1</sup> Non reproduites.<sup>1</sup> Not printed.



I enclose at the same time, for your information, copies of communications<sup>1</sup> recently received from the postal administration of Uruguay, as distinct from the International Office of the Pan American Postal Union, which has its headquarters in that country. You will observe that the Uruguayan postal administration refuses to accept the two-cent letter rate from Canada unless she enters the Pan American Postal Union. As the whole purpose of our two-cent letter rate to the countries of South America is increased good will in commercial relations between the countries of South America and Canada, it would seem that a refusal to accept the invitation to join the Pan American Postal Union would be unfortunate from the point of view of trade.

The view of this Department is that the present friendly postal relations with South America should be cemented by an acceptance of the invitation to join the Pan American Postal Union. If, therefore, your Office should concur with us in this, we would so advise our correspondent. The whole question in this way would be dealt with purely from a postal point of view.

As you are aware, no definite action would be taken until the meeting of the next Pan American postal congress, and, as above stated would be confined to the postal sphere.

Yours sincerely,

H. GABOURY

733.

*Le chargé d'affaires de France au secrétaire d'État  
aux Affaires extérieures*

*French Chargé d'Affaires to Secretary of State for External Affairs*

No. 39

Ottawa, le 3 juillet 1930

Monsieur le Premier Ministre,

Je suis chargé et j'ai l'honneur d'appeler votre attention sur le Premier Congrès international de la Sécurité Aérienne qui doit s'ouvrir à Paris le 10 décembre prochain, quatre jours avant la clôture du Salon de l'Aéronautique, et se continuer jusqu'au 23 du même mois.

Ce Congrès, placé sous le haut patronage de Monsieur le Président de la République française ouvre une ère de collaboration internationale, dont la répercussion peut être considérable sur le développement de la navigation aérienne. Il présente donc une importance particulière au point de vue de l'économie générale et il serait désirable que toutes les Nations participassent largement à ses travaux.

Afin d'obtenir ce résultat, le Comité organisateur du Congrès a entrepris des démarches auprès des Représentants des Nations Étrangères à Paris, en vue d'obtenir:

1. La désignation dans chaque État, de groupements correspondants susceptibles de faire connaître l'organisation de cette manifestation, de

<sup>1</sup> Non reproduites.

<sup>1</sup> Not printed.

susciter des adhésions et des rapports, enfin, d'assurer la traduction et l'impression en un volume de l'ensemble des communications présentées au Congrès.

2. Le Haut Patronage de tous les souverains et Chefs d'États Étrangers.

A cette lettre est annexée la liste des groupements qui, à la date de ce jour, ont bien voulu accepter de remplir sur place le même rôle que le Comité organisateur remplit en France. Par ailleurs, L.L.M.M. les Rois de Belgique et d'Espagne ont d'ores et déjà accordé leur Haut Patronage au Congrès.

En m'invitant à renouveler auprès de vous la communication qui vous a été faite à ce sujet par l'Honorable Philippe Roy, Ministre du Canada à Paris, mon Gouvernement m'a chargé de vous faire connaître qu'il apprécierait d'une manière toute spéciale de voir les Techniciens et Spécialistes canadiens qualifiés par leurs études antérieures ou aptes à suivre les travaux du Congrès, participer en aussi grand nombre que possible à cette manifestation, à laquelle il porte un haut intérêt.

Veuillez agréer etc.

HENRI COURSIER

734.

*Le secrétaire d'État aux Affaires extérieures  
au chargé d'affaires de France*

*Secretary of State for External Affairs to French Chargé d'Affaires*

No. 40

Ottawa, le 25 juillet 1930

Monsieur le Chargé d'Affaires,

J'ai l'honneur de me référer à votre note du 3 juillet dans laquelle vous appelez mon attention sur le Premier Congrès international de la Sécurité aérienne qui doit s'ouvrir à Paris le 10 décembre prochain, quatre jours avant la clôture du Salon de l'Aéronautique, et se continuer jusqu'au 23 du même mois.

Je suis aujourd'hui en état de vous laisser savoir que le Gouvernement canadien, se rendant compte de l'utilité de ce Congrès, auquel le Premier Ministre canadien a déjà donné son patronage par l'entremise du Ministre canadien à Paris, désire y participer et se propose de déléguer pour le représenter l'un des membres de la Légation canadienne à Paris, qu'il aurait l'intention de faire accompagner d'un technicien canadien. J'espère pouvoir bientôt vous faire connaître le nom de ce délégué et, si les arrangements à faire se réalisent, aussi celui du technicien devant l'accompagner.

Veuillez agréer etc.

O. D. SKELTON

pour le secrétaire d'État  
aux Affaires extérieures

735.

*Le secrétaire d'État aux Affaires extérieures  
au chargé d'affaires de France*

*Secretary of State for External Affairs to French Chargé d'Affaires*

No. 47

Ottawa, le 18 août 1930

Monsieur le Chargé d'Affaires,

Me référant à votre lettre du 28 juillet 1930 relative au Congrès international de la Sécurité aérienne, j'ai l'honneur de vous laisser savoir que Monsieur Jean Désy, Conseiller de la Légation canadienne à Paris, représentera le Gouvernement canadien à ce Congrès.

Veuillez agréer etc.

O. D. SKELTON

pour le secrétaire d'État  
aux Affaires extérieures

736.

*Le sous-ministre des Postes au sous-secrétaire d'État  
aux Affaires extérieures*

*Deputy Postmaster General to Under-Secretary of State  
for External Affairs*

Ottawa, October 14, 1930

Dear Dr. Skelton,

With reference to previous correspondence, I enclose translation from the Spanish of a letter<sup>1</sup> recently received from the Director of the International Office of the Pan American Postal Union, requesting a decisive reply in regard to Canada becoming a member of the Union, in view of the near approach of the Pan American Postal Congress which will convene in Madrid in May next, together with copy of our reply<sup>1</sup> accepting the invitation.<sup>2</sup>

I enclose at the same time for your information, copies of telegrams<sup>1</sup> recently exchanged with Mr. Webster, in London.

Yours sincerely,

H. GABOURY

<sup>1</sup> Non reproduits.

<sup>2</sup> Par une lettre en date du 2 mars 1931, le sous ministre des Postes avisa O. D. Skelton que l'Union postale Pan-Américaine avait agréé à la requête du Canada.

<sup>1</sup> Not printed.

<sup>2</sup> In a letter to O. D. Skelton, dated March 2, 1931, the Deputy Postmaster General stated that the Canadian application had been accepted by the Pan-American Postal Union.

## CHAPITRE VI / CHAPTER VI

### RELATIONS AVEC DIVERS PAYS

### RELATIONS WITH INDIVIDUAL COUNTRIES

AUTRICHE/AUSTRIA, BRÉSIL/BRAZIL, ANTILLES ANGLAISES/  
BRITISH WEST INDIES, CHINE/CHINA, CUBA/CUBA, TCHÉ-  
COSLOVAQUIE / CZECHOSLOVAKIA, DANEMARK / DENMARK,  
FRANCE/FRANCE, ALLEMAGNE/GERMANY, HONGRIE/HUN-  
GARY, JAPON/JAPAN, LITUANIE/LITHUANIA, MEXIQUE/MEXI-  
CO, PAYS-BAS/NETHERLANDS, TERRE-NEUVE/NEWFOUND-  
LAND, NOUVELLE-ZÉLANDE/NEW ZEALAND, NORVÈGE/NOR-  
WAY, POLOGNE/POLAND, ESPAGNE/SPAIN, UNION DES RÉPU-  
BLIQUES SOCIALISTES SOVIÉTIQUES/UNION OF SOVIET  
SOCIALIST REPUBLICS.

### AUTRICHE/AUSTRIA

737.

*Le secrétaire aux Dominions au Gouverneur général*  
*Dominions Secretary to Governor General*

DESPATCH 359

Downing Street, June 18, 1927

My Lord,

I have the honour to transmit to Your Excellency for the information of His Majesty's Government in Canada, the accompanying copy of a note<sup>1</sup> to the Austrian Minister regarding a proposed agreement with Austria for the mutual abolition of visas.

2. In the event of an agreement being concluded on the lines proposed, the question of the extension of the arrangement to other parts of the Empire will arise.

3. His Majesty's Government in Great Britain would accordingly be glad to learn whether His Majesty's Government in Canada would be prepared to admit Austrian nationals into Canada without the requirement of a British visa, subject to the understanding that Austrian nationals should still be required to be in possession of valid passports and to comply with the immigration regulations in force at the port or place of entry.

I have etc.

L. S. AMERY

<sup>1</sup> Non reproduite.

<sup>1</sup> Not printed.

738.

*Le secrétaire aux Dominions au Gouverneur général*  
*Dominions Secretary to Governor General*

DESPATCH 288

Downing Street, June 29, 1927

My Lord,

I have the honour to transmit the accompanying copy of a note from the Austrian Minister regarding the desire of the Austrian Government to conclude with His Majesty's Government in Canada a reciprocal agreement with a view to securing similar legal treatment for immigrants and their families in both countries.

2. The reference in the first paragraph of the note would appear to be to Resolution 9(a) of Part II of the Final Act of the International Conference on Emigration and Immigration, 1924, of which a copy was enclosed in my despatch No. 18 of the 9th January, 1925.

3. I shall be glad to learn what reply His Majesty's Government in Canada would wish to be returned to the Austrian Minister.

I have etc.

L. S. AMERY

[PIÈCE JOINTE/ENCLOSURE]

*Le ministre d'Autriche en Grande-Bretagne au secrétaire*  
*aux Affaires étrangères*  
*Austrian Minister in Britain to Foreign Secretary*

London, June 7, 1927

Sir,

The first International Conference of Emigration and Immigration held in Rome in 1925 in Resolution No. 9 Section A has declared it desirable that the various States, more especially those interested in Immigration and Emigration should conclude reciprocal agreements with a view to securing to immigrants and their families equal treatment as regards the protection afforded by the law courts of a country to that received by the citizens of that country.

In this connection two points appear to be of importance:

1. In most countries foreigners are admitted to the law courts on the same footing as the citizens of the respective country, but the crucial point is that foreigners when taking legal action are usually compelled to deposit



a certain amount of money with the court as a guarantee for the settlement of the costs of the legal proceedings and as the immigrants do not generally belong to a well-to-do class of people they are often practically precluded by lack of money from pursuing their legal claims.

2. Under Austrian law poor persons can when desirous of taking legal action apply to the law court for a gratuitous counsel and if the judge can be satisfied both about their indigence and that their claim is a good one an ex-officio counsel is appointed to represent them in court.

As considerable numbers of Austrians have emigrated to the Dominion of Canada the Austrian Government are desirous to conclude if possible an agreement, such as contemplated in the first paragraph of this note, with the Government of Canada. It would be desirable that such an agreement should contain provisions covering the two points set out here above i.e. besides securing to immigrants the same rights before law courts as are enjoyed by the nationals of the respective signatory state they should provide for the exemption of an indigent plaintiff from the necessity of making the aforesaid deposit and moreover for allowing an indigent suitor to enjoy the benefit of gratuitous legal protection and especially of the gratuitous assistance of counsel.

With regard to the form to give to such provisions I have the honour to attract your attention to the convention on legal procedure signed at the Hague on the 17th July 1905 which could be recommended to the Canadian Government as a model to be followed in drawing up a similar agreement.

I should be much obliged to you if you would kindly pass on the contents of this note to the Government of the Dominion of Canada letting me know their answer as to the question whether they are in principle prepared to contemplate the conclusion of such a convention.

I have etc.

G. FRANCKENSTEIN

739.

*Le secrétaire d'État aux Affaires extérieures au secrétaire  
aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

DESPATCH 9

Ottawa, July 12, 1927

Sir,

In reply to your despatch Dominions No. 359 of the 18th ultimo, regarding a proposed agreement with Austria for the mutual abolition of visas on passports and the question of its extension to other parts of the Empire,

in which you enquire whether His Majesty's Government in Canada would be prepared to admit Austrian nationals into Canada without the requirement of a British visa, I have the honour to inform you that as Canadian regulations do not impose on Austrian nationals the requirement of any consular visa, though in the case of immigrants coming to settle in the Dominion the visa of a Canadian Immigration Officer in Europe is necessary, and as the proposed agreement makes special provision for compliance with the immigration regulations in force at the place of entry the Canadian Government would have no objection to it.

I have etc.

W. L. MACKENZIE KING

740.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

DESPATCH 27

Ottawa, July 26, 1927

Sir,

With reference to your despatch No. 288 of the 29th June last regarding the desire of the Austrian Government to conclude with His Majesty's Government in Canada an agreement for the purpose of securing similar legal treatment for immigrants and their families in Canada and in Austria, I have the honour to state that His Majesty's Government in Canada would be grateful if the Austrian Minister could be informed that Austrian immigrants, in common with other immigrants, receive the same legal treatment and have the same rights before Canadian courts as native born Canadians.

It might further be pointed out that the administration of justice lies within the jurisdiction of the provinces, so that any special privileges for indigent persons must be extended under the authority of provincial legislation; and that provision is already made by some of the provinces for the remission of court fees, and the assignment of a legal adviser without charge, in the case of persons establishing their necessity to the satisfaction of the court, the benefits of which provision are shared by Austrian immigrants.

The proposed agreement, however, would have the effect of discriminating in favour of such immigrants by conferring on them privileges not generally enjoyed by Canadian citizens, and considering all the circumstances the Government is not prepared to entertain the proposal for the conclusion of such an agreement.

I have etc.

W. L. MACKENZIE KING

741.

*Le ministre des Finances au ministre d'Autriche en Grande-Bretagne*  
*Minister of Finance to Austrian Minister in Britain*

Ottawa, February 24, 1928

Monsieur le Baron,

Mr. Franke, Austrian Consul at Montreal, has made known to my Department your desire that during his absence from Canada correspondence in regard to the proposed trade agreement between Austria and Canada should be sent to you. Some time ago Mr. J. A. Russell, Commissioner of Tariff, handed to Mr. Franke a draft of an agreement between the two countries. I was absent from Ottawa at the time, and consequently this draft had not come before me for approval. I am now sending you a draft convention<sup>1</sup> which I have approved.

When the terms of the agreement have been decided upon, it will be necessary to consider the procedure to be adopted in regard to the signing of the document. Doctor Skelton, the Under-Secretary of State for External Affairs, points out three courses, any one of which might be followed:

1. The agreement might be signed in London by you and the High Commissioner for Canada, after authorization by the respective Governments;

2. The Austrian Minister at Washington might be authorized by his Government to come to Ottawa and to sign the agreement here, along with duly accredited representatives of Canada;

3. The signing might be delayed until Mr. Franke's return, when the agreement would be signed in Ottawa by him and the Canadian representatives.

I must point out that if the third course be chosen the convention could not be brought before our Parliament at the present session.

Will you kindly let me know the views of your Government in this matter. We should prefer to have the signing done in Ottawa, but we are of course desirous of meeting your wishes as far as possible.

Yours faithfully,

JAMES A. ROBB

742.

*Le ministre d'Autriche en Grande-Bretagne au secrétaire d'État*  
*Austrian Minister in Britain to Secretary of State*

London, May 31, 1928

Sir,

During my visit to Ottawa last October I took the opportunity of explaining to the Minister of Immigration, Mr. Forke, and to Mr. Egan the great impor-

<sup>1</sup> Non reproduit.

<sup>2</sup> Not printed.

tance which the Austrian Government attach to Austrian nationals being granted the same treatment with regard to immigration into Canada as the nationals of the "preferred nations". The two gentlemen took a great interest in the arguments which I used and kindly promised that they would do their best to bring about the realisation of our wish. They said, however, that they would prefer to see a measure introduced which would provide for equal treatment of the nationals of all countries.

I have now been instructed by the Austrian Government to approach the Canadian Government with an official request based on the following facts:

As is known to you the immigration into Canada of Austrians is admissible only in the case of certain classes of people, viz. farmers, farm-workers, female domestic servants, and the relations of immigrants. Some nations, amongst them Great Britain, France, Germany, and, as it is believed, also Switzerland, are treated as "preferred nations," i.e. the nationals of those countries have the right of immigrating into Canada even if they are not farmers by profession, provided that they are able to defray themselves the expenses of travelling and that they possess sufficient money to support themselves during the initial period of their stay in Canada. There is therefore no question in the case of nationals of those States of obtaining a permit or any other document for entering the country except a valid passport issued within the year preceding entry. As the cultural conditions prevailing in Austria are the same as those in the adjoining parts of the German Reich there seems, in our opinion, to be no reason why the Austrian emigrants should be treated differently from the Germans.

The differential treatment of Austrian as compared to German immigrants might be due to Canada having not yet become fully aware of the fact that present-day Austria, in contrast to the former Austrian Monarchy with its numerous nations which had not all attained the same standard of civilisation, is a purely German country. Moreover, the population of Austria being approximately only one tenth of the population of the German Reich, there is no reason whatsoever for apprehension lest Canada might be overcrowded by Austrian immigrants if Austria were to be ranked among the preferred nations.

I have the honour to request you kindly to bring the matter in question before the Canadian Government, to use your influence that it may be taken into favourable consideration and to inform me in due time of the decision arrived at with regard to the future treatment of Austrian immigrants into Canada.

I have etc.

G. FRANCKENSTEIN

743.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

DESPATCH 231

Downing Street, June 16, 1928

Sir,

I have the honour to transmit for the information of His Majesty's Government in Canada, a copy of a note from the Austrian Minister regarding the immigration of Austrian nationals into Canada.

2. His Majesty's Government in Great Britain would be glad to learn what reply His Majesty's Government in Canada wish to be returned to the Austrian Minister.

I have etc.

L. S. AMERY

[PIÈCE JOINTE/ENCLOSURE]

*Le ministre d'Autriche en Grande-Bretagne au secrétaire  
aux Affaires étrangères*

*Austrian Minister in Britain to Foreign Secretary*

London, May 22, 1928

Sir,

I have been instructed by the Federal Chancellery for Foreign Affairs in Vienna to approach you in the following matter.

Under the Canadian Immigration Regulations every Austrian national applying for the Canadian immigration visa must be in possession of a passport issued within the territory of the Austrian Federation, and the date of issuing that passport must not, at the date of granting the visa, date back more than one year.

Passports issued, extended, or prolonged by the Austrian diplomatic or consular representatives abroad, are not recognised as valid by the Canadian immigration officers stationed at the various ports of embarkation.

Austrian nationals emigrating to Canada *from Austria* must have their fitness for emigration to Canada examined by the agent of one of the two



Canadian Railway and Colonisation Companies which have been entrusted by the Canadian Government with selecting fitted emigrants (Canadian Pacific Railway and Canadian National Railways), and must obtain from him in case of their being found fit, a certificate assuring them of being given some employment in Canada. Only on the strength of such a certificate will they be granted by the Canadian immigration officer of the respective port of embarkation the visa valid for entry into Canada.

It is not known to the Federal Chancellery, Department of Foreign Affairs, whether Austrians living in a foreign country may obtain the said certificate in the foreign country of which they are residents, provided always that there is a Certificate Issuing Officer stationed in such country. But as far as can be ascertained at present, the Canadian immigration officers stationed at the ports of embarkation, are reported to grant *by order of the Canadian authorities* in London immigration visas also to persons not in possession of a certificate of employment.

As the Federal Chancellery, Department for Foreign Affairs receives many complaints from Austrians living abroad about the difficulties they have in obtaining the Canadian immigration visa, the Austrian Legation has been requested to make enquiries at the proper offices and first of all to ascertain under what conditions Austrians living abroad may obtain a visa for immigration into Canada.

On this occasion the Legation has been asked to point to the fact that the requirement contained in the Canadian immigration regulations, namely that the passports of Austrians living abroad, must be issued by some authority in the homeland, is contrary both to the Austrian passport regulations and to the views held by most of the foreign governments on competence in passport matters, and therefore difficult to comply with. We are thus compelled to trespass in every individual case against our own regulations of competence in order to assist intending immigrants to get a passport valid for immigration into Canada, and, what is more, in doing so run the risk of recriminations on the part of foreign governments. As a matter of fact Switzerland has in one case entered a protest against Austrian passport officers in the homeland having issued passports to Austrians resident in Switzerland, in place of the competent consular officers.

We should, therefore, be particularly glad, if the Canadian immigration authorities could see fit to reconsider the view taken by them of the matter in question.

I shall be very grateful if you will take up the matter with the Government of the Dominion of Canada and let me have their answer in due course.

I have etc.

G. FRANCKENSTEIN

744.

*Le ministre de l'Immigration au ministre d'Autriche  
en Grande-Bretagne*

*Minister of Immigration to Austrian Minister in Britain*

Ottawa, June 22, 1928

Dear Baron Franckenstein,

I have for acknowledgment your letter of May 31st as well as copy of yours of the same date addressed to the Honourable Fernand Rinfret, Secretary of State for Canada.

As I have already advised, we appreciate fully all that you have been good enough to submit and have given consideration both before and since your visit to what you now bring before me officially.

I regret that I am not in a position to give you a favourable answer at the moment, but we are certainly keeping in mind the possibilities in this direction.

Yours very truly,

ROBERT FORKE

745.

*Le ministre d'Autriche en Grande-Bretagne au ministre des Finances  
Austrian Minister in Britain to Minister of Finance*

London, June 28, 1928

Sir,

With your letter of February 24th, 1928, you were good enough to send me the draft of a Convention of commerce between Austria and Canada which I have not failed to submit to the Austrian Government.

After careful consideration the Austrian Federal Government have drawn up the memorandum which is herewith enclosed<sup>1</sup>. As you will gather from it they have expressed their full concurrence in the proposals made for articles 1, 2, 3, 4 and 6, but they offer some suggestions for certain amendments of article 5. As to article 6, a slight formal alteration is proposed. Doctor Skelton, the Under-Secretary of State for External Affairs suggested three courses which might be followed with regard to the procedure to be adopted for the signing of the document. As stated in the memorandum the Federal Government would prefer the first alternative viz. signature in London by the High Commissioner for Canada and myself.

I have the honour to request you kindly to inform me whether the Canadian Government approve the suggestions contained in the memorandum.

Yours faithfully,

G. FRANCKENSTEIN

<sup>1</sup> Non reproduit.

<sup>1</sup> Not printed.

746.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

DESPATCH 295

Ottawa, July 25, 1928

Sir,

With reference to your despatch dated June 16th, 1928, No. 231, enclosing copy of a note from the Austrian Minister regarding the immigration of Austrian nationals into Canada, I have the honour to communicate to you the reply that His Majesty's Government in Canada would wish to be returned to the Austrian Minister at London:

Canadian Order-in-Council P.C. 185, dated the 31st of January, 1923, relative to passports, reads in part as follows:

On and after the 15th February, 1923, it shall be necessary as a condition to permission to land in Canada, that every immigrant shall be in possession of a valid passport issued in and by the Government of the country of which such person is a subject or citizen, such passport to be presented within one year of the date of its issue;

Provided:

1. That this regulation shall not apply to British subjects landing in Canada directly, or indirectly, from Great Britain or Ireland, Newfoundland, New Zealand, Australia, the Union of South Africa or the United States of America, nor shall it apply to United States citizens or to farmers, farm labourers or female domestic servants landing in Canada from the United States. The term, British subject, within the meaning of this clause, includes only persons born or naturalized in Great Britain or Ireland, Newfoundland, New Zealand, Australia or the Union of South Africa.

2. That the passport of any alien immigrant sailing directly or indirectly from the Continent of Europe, shall carry the vise of a Canadian Immigration Officer stationed on the Continent of Europe.

3. That the passport of any alien immigrant not included in No. (2) of this regulation, shall carry the vise of a British Diplomatic or Consular Officer.

It is thus evident that,

(1) Citizens of Austria, in order to qualify for admission to Canada, must be in possession of valid passports issued in and by the Government of Austria, such passports to be visé by a Canadian Immigration Officer stationed on the Continent of Europe.

(2) Passports issued by Consular Officers do not meet the requirements of our law.

In view of these facts, the Department of Immigration regrets the suggestion of the Austrian Government that Consular passports be accepted cannot be favourably acted upon.

*Procedure to be followed by Immigrants.*

The Immigration regulations provide for the admission to Canada of

- (1) Bona fide agriculturists entering Canada to farm and having sufficient means to begin farming in Canada.
- (2) Bona fide farm labourers entering Canada to follow that occupation and who have reasonable assurance of employment.
- (3) Female domestic servants entering Canada to follow that occupation and having reasonable assurance of employment.
- (4) Wives and children of persons legally admitted to and resident in Canada who are in a position to receive and care for their dependents.

It is, of course, to be understood that all immigrants are required to be in good health and to comply with the passport and other general requirements of the law.

In 1925, what is known as the Railways Agreement came into effect, the same being an arrangement between the Department of Immigration and Colonization and the Canadian National Railways and the Canadian Pacific Railway Company, which arrangement greatly facilitated the procedure whereby immigrants from certain European countries, including Austria, were admitted to Canada.

Under the Agreement the Railways will act as our agents for advising migrants and in this connection will issue, without charge, a certificate containing information as to the occupational fitness of the migrant for Canada. This certificate will also embody a guarantee of placement, which guarantee is satisfactory to the Department of Immigration and Colonization. Certificates will, for the most part, be issued in the country to which the migrant belongs. This will prevent disappointment and hardship that might arise from a migrant selling up his home and starting for Canada before finding out whether he is likely to be admitted. The certificate will be carried by the migrant and presented to the Canadian Immigration Inspector at the port of embarkation, when it will be lifted for the passport vise to be given.

The Agreement does not in any way supersede the Immigration regulations, there being no change in this regard. The only persons covered by the Agreement are the agricultural and female domestic classes, including wives and children, whether the head of the family is accompanying or is settled in Canada.

In order to co-operate with the Department of Immigration and Colonization in the selection of the type of settler likely to do well in Canada, the Railways have appointed accredited agents to represent them in Europe. The Department is advised by the Railways that these agents have been selected on account of their trustworthiness, their knowledge

of Canada and their general ability to properly represent the Company by which they are employed. The certificate signed by one of these accredited agents will be regarded as binding upon the Company which will ensure the migrant of proper placement in Canada.

The Agreement is only intended to operate in certain European countries and occupational certificates are issued by the representatives of the two Railways to citizens of these countries when such persons are residing in the country of citizenship. Therefore, Austrian citizens living in foreign countries cannot obtain such occupational certificates.

The law provides that in addition to the admissible classes referred to above, a person who has satisfied the Minister that his labour or service is required in Canada may be admitted. Such cases are dealt with individually and decided after investigation by the Department of Immigration and Colonization. It is presumed that these are the cases referred to in which Canadian Immigration officers stationed at ports of embarkation are instructed to grant vise through the Canadian authorities in London. It is usual for instructions in such cases to be transmitted through the channel referred to.

The operation of the above Railways Agreement does not prevent an Austrian citizen or the citizens of any other country in which the said Agreement operates, from making direct application to the Canadian Immigration officer at a port of embarkation for a vise. The value of the occupational certificate is that it furnishes reasonable assurance of employment in the cases of farm labourers and female domestic servants, thus complying beyond doubt with the requirements of the occupation regulation referred to above.

I have etc.

O. D. SKELTON  
for the Secretary of State  
for External Affairs

747.

*Le ministre d'Autriche en Grande-Bretagne au ministre des Finances*  
*Austrian Minister in Britain to Minister of Finance*

London, May 16, 1929

Sir,

I have ventured to transmit to you by telegram the urgent request of the Austrian Government to be informed of the decision of the Canadian Government in regard to the amendments suggested by the former to the draft convention of commerce between our two countries which you were good



enough to transmit to me in your note of February 24th, 1928. The Austrian proposals were contained in the enclosure to my note of June 28th, 1928, No. 159/P, and I had the honour to refer to the matter again in a letter dated February 1st, 1929.

The Austrian Government understand that in the past year the Canadian Government have concluded most-favoured-nation treaties with a number of European States. This extension of most-favoured-nation treatment especially to two neighbouring States of Austria, viz. Hungary and Yugoslavia, has resulted in a severe set-back to Austria's export trade to Canada.

In view of the fact that Austria for years already has sought to arrive at a reciprocal most-favoured-nation agreement with Canada, the disadvantageous position of the Austrian export trade in that Dominion as compared to the majority of other European States to whom most-favoured-nation treatment has been granted is strongly felt; all the more so as Austria continues to accord most-favoured-nation treatment to Canadian goods in spite of the absence of a reciprocal convention.

It is true that Canada has not granted special privileges to the countries in question in regard to the transshipment clause, i.e. the most-favoured-nation treatment is conditional on the goods being shipped either direct from the territory of the treaty partner or via a country enjoying the Canadian preferential or intermediate tariff. A concession on this point was not, however, so essential for the countries with whom treaties have been concluded as it is for Austria. In view of Austria's peculiar geographical position goods destined for Canada in so far as they are not shipped via Antwerp are chiefly sent via ports in Germany to which country the Canadian general tariff only is applied.

It was evident from the draft convention proposed by the Canadian Government that this point was fully appreciated by them and therefore the amendments submitted by the Austrian Government were of so slight a nature that it is felt the Canadian Government should have no difficulty in giving them their favourable consideration.

In view of the injurious effects the present position has on the Austrian export trade to Canada the Austrian Government are most anxious to have the reciprocal most-favoured-nation convention concluded at the earliest possible moment.

May I therefore request you to cause the Austrian proposals to be examined in the light of the arguments put forward in my note of June 28th, 1928, and with due consideration to the unjustified disabilities suffered by Austria as a result of the present differential treatment accorded to it in Canada.

Yours faithfully,

G. FRANCKENSTEIN

748.

*Le secrétaire d'État aux Affaires extérieures au Haut commissaire*  
*Secretary of State for External Affairs to High Commissioner*

TELEGRAM 105

Ottawa, October 17, 1929

Following for Skelton from Minister of Finance. Begins. Baron Franckenstein, Austrian Minister, cables today:

As Austrian Government Representative was informed by Mr. Euler in Geneva that Austro-Canadian Commercial Convention was being considered by Council in Ottawa and that reply could be expected shortly Austrian Government would be grateful for early information as to result of examination of their proposals. You would oblige me by telegraphing how matter stands.

Have replied as follows:

Dr. Skelton, Under-Secretary of State for External Affairs, now in London and have requested that he ask for interview.

Would you interview Austrian Minister emphasizing economic problem arising out of changes in Tariff legislation of a neighbouring country also difficulties in connection with the Direct Shipping Clause and the desirability of uniformity of treatment extended to non-British countries with which we enjoy favourable trade relations. You will express to His Excellency our appreciation of the interest shown by him in developing close trade relations between Austria and Canada. Ends.

749.

*Le ministre d'Autriche en Grande-Bretagne au sous-secrétaire d'État*  
*aux Affaires extérieures*

*Austrian Minister in Britain to Under-Secretary of State*  
*for External Affairs*

London, February 12, 1930

Dear Dr. Skelton,

You have probably already heard that the Austrian Federal Government have established a Consulate General in Ottawa. Dr. Ludwig Kleinwachter, Consul General de carrière, has been appointed head of this office and is at present on his way to Canada.

As you were requested by the late Mr. Robb to discuss with me the proposed trade agreement between the Dominion of Canada and the Austrian Republic I take this opportunity of informing you that Dr. Kleinwachter has power to continue the negotiations up to now carried on by me. As the Austrian Federal Government attach the very greatest

importance to the conclusion of the treaty of commerce at an early date I sincerely hope that the appointment of Dr. Kleinwachter and the fact that negotiations will be made very much easier through his presence in Ottawa may considerably contribute to a speedy settlement of this question.

I am also instructed to inform you with regard to the place of signature of this treaty that the Federal Government wish to leave this point entirely to the discretion of His Majesty's Government in Canada.

Perhaps you would be good enough to inform the successor of Mr. Robb whose passing away I deeply regretted of the contents of this letter.

The new Austrian Consul General will take an early opportunity of calling on you after his arrival at Ottawa, and I have great pleasure in recommending him very warmly to you and to your colleagues.

Yours sincerely,

G. FRANCKENSTEIN

750.

*Le ministre du Commerce au Premier ministre*  
*Minister of Trade and Commerce to Prime Minister*

Ottawa, September 18, 1930

Dear Mr. Prime Minister,

A situation has arisen which seems to me is more or less absurd. Briefly it is as follows. The automobile exporters, particularly Mr. T. A. Russell's company, have been endeavouring to get their products into Austria.

The Austrian Government it seems under some international regulation allotted a certain number of cars to certain foreign countries, Canada not being included. Efforts have been made through the Finance Department, your Dr. Skelton, the Dominions Office in London, thence through the Foreign Office, thence through the Minister representing Great Britain in Austria, thence through the Austrian Minister having the matter in charge, with the inevitable result that nothing has been done.

I have suggested that one of our competent Trade Commissioners, as this is a matter possibly of trade, should take it up direct, but I am informed that this would be a violation of the usual procedure.

I can see the utter hopelessness of doing business in the way outlined above, and I feel that in some way or other this matter should be dealt with so that our Trade Commissioners can deal with matters of a commercial nature without this long "rigamorole" of red tape.

Yours sincerely,

H. H. STEVENS

751.

*Le Premier ministre au ministre du Commerce*  
*Prime Minister to Minister of Trade and Commerce*

Ottawa, September 19, 1930

Dear Harry,

I have your letter of the 18th instant, with reference to Canadian automobiles entering Austria.

I have been informed that behind this is really some resentment about the action of the Canadian Government on Immigration.

Yours faithfully,

R. B. BENNETT

752.

*Le consul général d'Autriche au sous-secrétaire d'État*  
*aux Affaires extérieures*  
*Consul General of Austria to Under-Secretary of State*  
*for External Affairs*

Ottawa, December 22, 1930

Dear Dr. Skelton,

Referring to our previous correspondence regarding the Austro-Canadian trade relations, I have the honour to inform you that, according to instructions which I have received from the Foreign Office in Vienna, our Minister in London, Baron Franckenstein, has had the opportunity to discuss with The Honourable, the Canadian Prime Minister during his recent stay in Europe, the possibilities of the conclusion of a commercial treaty between these two countries.

You are aware that while Canada is enjoying in Austria the most favoured nation treatment, Austrian imports into Canada are subject to the Canadian General Tariff. I have pointed out to you before that, though the Austrian Government is opposed to take any change in the present treatment of Canadian imports into consideration, its position becomes increasingly difficult in the face of a growing opposition in the ranks of the Austrian farmers and industrialists, most curiously unanimous in this single matter. Baron Franckenstein has suggested therefore to Mr. Bennett whether the granting of the most favoured nation treatment to Austria might not be possible by some action of the Canadian Government as a temporary measure and until the conclusion of a Treaty of Commerce.

I would appreciate it very highly if you would let me know whether you could be good enough as to arrange for me an interview with the Prime Minister after his return from the West in January next in order to take up with him Baron Franckenstein's conversation in regard to the possibilities of the conclusion of an Austro-Canadian trade agreement.

Permit me to add for your information the following figures:

As shown in my letter of March 18, 1930, addressed to you, Austrian imports from Canada have been steadily rising for the last 4 or 5 years, reaching in 1928 for foodstuffs \$2,827,023 out of a total of imports amounting to \$3,066,416.

In the first 7 *months* from January up to and including July 1930 imports of Canadian Alimentary Products alone into Austria amounted in round figures to about \$2,080,000 while the total of Austrian exports to Canada in the same period reached only about \$520,000. Imports of Canadian wheat alone from January 1st to September 30th, 1930, amounted to about \$1,350,000 while imports of Canadian wheat-flour during the same period amounted to an additional \$820,000, leaving *far* behind all previous figures for that article for a whole fiscal year! Canada has thus taken second place in Austrian imports of wheat flour, with Hungary being first.

Faithfully yours,

L. VON KLEINWACHTER

### BRÉSIL/BRAZIL

753.

*Le sous-secrétaire d'État aux Affaires extérieures au consul du Brésil*

*Under-Secretary of State for External Affairs to Consul of Brazil*

Ottawa, May 23, 1929

Sir,

In accordance with section 4, paragraph (m) of the Income War Tax Act of the Parliament of Canada the income from the operation of ships owned or operated by a non-resident person or corporation is exempt from income tax in Canada, provided that the country where such person or corporation resides grants an exemption in respect of income earned therein from the operation of ships owned or operated by a person or corporation resident in Canada, which in the opinion of the Minister of National Revenue is fairly reciprocal to the exemption provided by Canada. The Canadian Government, with a view to avoiding double taxation of shipping profits and to ensure that an exemption is or will be granted with respect to the taxation of the income of Canadian vessels equivalent to that authorized by the law of Canada, is negotiating formal arrangements with the Governments of certain other maritime nations for the reciprocal exemption of shipping profits from income tax, and is prepared to negotiate a like agreement with the Government of Brazil. Accordingly, I have the honour to submit the following draft Agreement for the consideration of your Government:

1. In respect of the Dominion of Canada the Canadian Government undertakes that in accordance with the provisions of the Income War Tax Act the income from the operation of ships owned or operated by persons or corporations resident in Brazil shall not be liable to taxation.



2. In respect of Brazil the Brazilian Government undertakes that in accordance with the Brazilian law the income from the operation of ships owned or operated by persons or corporations resident in Canada shall in like manner be exempt from taxation.

3. It is understood that the expression "operation of ships" means the business carried on by an owner of ships and that for the purpose of this definition the expression "owner" includes any charterer.

4. It is agreed that the exemption from income tax on the income derived from the operation of the aforementioned ships shall be deemed to be effective in respect of the income of fiscal periods ending in the year 1929 and each year thereafter until rescinded by either party giving to the other notice one year in advance of the fiscal periods affected, or until otherwise rescinded by the repeal of the income tax laws of either country.

5. It is further agreed that taxes which have been paid by persons or corporations resident in the country of the other and which have been paid more than a year from the date hereof shall not be refunded.

It is suggested that, as a matter of convenience, and in order to facilitate negotiations, it would be desirable that the proposed Agreement be effected in the form of an Exchange of Notes. Accordingly, if this draft undertaking meets with the approval of your Government, I have the honour to advise that the Canadian Government is prepared to conclude immediately a definitive Agreement on this basis by an Exchange of Notes.

The Canadian Government understands that it is the intention of the Brazilian Government to levy taxation on profits of shipping companies resident in countries with which no arrangement for exemption has been entered into before May 30th. I have, therefore, to ask that you inform your Government by telegram of the willingness of the Canadian Government to conclude as early as possible an Agreement with the Government of Brazil for reciprocal exemption of shipping profits from income tax, and request that Canadian vessels be exempted from making declarations pending final settlement.

I have etc.

O. D. SKELTON

754.

*Le consul du Brésil au sous-secrétaire d'État aux Affaires extérieures*  
*Consul of Brazil to Under-Secretary of State for External Affairs*

Montreal, June 6, 1929

Sir,

I have the honour to acknowledge receipt of your letter of May 23, and in accordance with your request, I duly cabled my Government in the sense of your letter.

I now have the pleasure of advising you that I have received a telegram from the Foreign Office, in reply to mine, reading (in translation) as follows:

Replying your telegram, no agreement necessary. It is sufficient Canadian Government grant equal favour to Brazilian navigation companies.

I am sending my Government a copy of your letter of May 23, and if there is anything further I can do to assist you in this matter, I shall be pleased to have you advise me in due course.

I have etc.

ANTONIO RABELLO BRAGA

755.

*Le sous-secrétaire d'État aux Affaires extérieures au consul du Brésil*

*Under-Secretary of State for External Affairs to Consul of Brazil*

Ottawa, June 20, 1929

Sir,

I have the honour to acknowledge the receipt of your despatch No. 16 of June 6th, stating that you have duly informed your Government by cable of the willingness of the Canadian Government to negotiate an agreement for reciprocal exemption of shipping profits from income tax, and that you have received a reply from your Government that, to secure exemption in Brazil, no agreement is necessary and that it is sufficient if the Canadian Government grant equal favour to Brazilian navigation companies.

In reply I am authorized to state the Canadian Government exempts from income tax the income from the operation of ships owned or operated by persons or corporations resident in Brazil. It is understood, therefore, that in accordance with Brazilian law, an equivalent exemption will be accorded Canadian shipping companies.

In order that there may be a formal record that exemption continues to be granted with respect to the taxation of the income of Canadian vessels, the Canadian Government considers that it would be desirable to conclude a definitive Agreement along the lines of the draft Agreement submitted in my letter of May 23rd, and is prepared to negotiate such an arrangement with the Brazilian Government.

I should be glad if you would advise your Government accordingly.

I have etc.

O. D. SKELTON

## ANTILLES ANGLAISES/BRITISH WEST INDIES

756.

*Le Gouverneur général au Gouverneur des Bahamas<sup>1</sup>*  
*Governor General to Governor of the Bahamas<sup>1</sup>*

TELEGRAM

Ottawa, June 17, 1926

Act of the Canadian Parliament approving the Trade Agreement with the West Indies of the 6th July, 1925, received the Royal Assent on 15th June.

BYNG

757.

*Le Gouverneur de la Jamaïque au Gouverneur général*  
*Governor of Jamaica to Governor General*

DESPATCH

Kingston, July 21, 1926

My Lord,

I have the honour to inform you that this Government is at present considering the question of the feasibility of floating Jamaica Government Loans in Canada as well as locally and in the United Kingdom, and I should therefore be glad if Your Lordship would be so good as to inform me whether it would be permissible under the Laws of the Dominion of Canada for this Colony to raise a loan and to register stocks or debentures in Canada.

I have etc.

R. E. STUBBS

758.

*Le Gouverneur général au Gouverneur de la Jamaïque*  
*Governor General to Governor of Jamaica*

DESPATCH

Ottawa, August 17, 1926

Sir,

With reference to Your Excellency's despatch of the 21st July enquiring whether it would be permissible under the laws of the Dominion of Canada

<sup>1</sup> Un télégramme semblable fut envoyé aux Gouverneurs de la Barbade, des Bermudes, de la Guyane anglaise, du Honduras britannique, de la Jamaïque, des îles sous le Vent, de la Trinité et du Tobago et des îles du Vent.

<sup>1</sup> Similar telegram sent to the Governors of Barbados, Bermuda, British Guiana, British Honduras, Jamaica, Leeward Islands, Trinidad and Tobago and the Windward Islands.

to raise a loan and to register stock or debentures in Canada, I have the honour to inform you that the Department of Finance is not aware of any law or rule against the making of such flotations and registering. The question would be one of practicability which would presumably be a matter for negotiation between the issuing body and Canadian banks or other Canadian financial institutions.

I have etc.

BYNG OF VIMY

759.

*Le Gouverneur général au Gouverneur des Bermudes<sup>1</sup>*  
*Governor General to Governor of Bermuda<sup>1</sup>*

TELEGRAM

Ottawa, February 1, 1927

My despatch July 20, 1925. Canada-West Indies Steamship Service. After careful consideration, Canadian Government has decided to entrust fulfilment of that part of the Agreement providing for steamship services to the Canadian National Railways Management. Before arriving at the above decision, tenders were called for by the Minister of Trade and Commerce on two separate occasions. The result of these calls for tenders convinced the Government that the services in question could be best provided by the Canadian National Railways. Services will be put into operation as nearly as possible within the time stipulated in the Agreement. Pending the provision of the services covered by the Agreement a temporary monthly passenger and freight service will be continued from Canadian Atlantic ports to all Islands and Colonies of the Eastern group. This service will be supplemented by monthly freight sailings from Canadian Atlantic ports thus providing fortnightly service from those ports to all Islands and Colonies of the Eastern group. Freight sailings from St. Lawrence River Ports will be continued as heretofore. Existing service to the Western group of Islands and Colonies provided by Canadian Government Merchant Marine will be continued. Canadian Government trusts that solution outlined will meet with approval and that with energetic support of the people of all countries concerned it will result in a large increase of trade to mutual advantage.

It is intended to release to Canadian Press a statement to the above effect at five o'clock February 2nd, Eastern Standard Time, for publication on February 3rd.

WILLINGDON

<sup>1</sup> Egalement expédié aux Gouverneurs des Bahamas, de la Barbade, de la Guyane anglaise, du Honduras britannique, de la Jamaïque, des îles sous le Vent, de la Trinité et du Tobago et des îles du Vent.

<sup>1</sup> Also sent to the Governors of the Bahamas, Barbados, British Guiana, British Honduras, Jamaica, Leeward Islands, Trinidad and Tobago and the Windward Islands.

760.

*Le Gouverneur général au secrétaire aux Dominions*  
*Governor General to Dominions Secretary*

TELEGRAM

Ottawa, April 28, 1927

Order-in-Council<sup>1</sup> passed and necessary Proclamation will be issued fixing 30th April as day on and after which tariff concessions under Canadian-West Indies Trade Agreement will be extended, with the exception of the concession regarding bananas, which is to be extended on a day hereafter to be notified when the steamship service provided for in Article 13 of the Agreement shall have been completely established.

Order-in-Council will also be published 30th April withdrawing as from that date benefit of British preferential tariff on cocoa beans not roasted, crushed or ground, from Colonies of Gold Coast, Lagos and other British possessions west of the Niger.

Please inform Governors of these West African Colonies accordingly.

761.

*Le Gouverneur de la Jamaïque au secrétaire d'État*  
*aux Affaires extérieures*  
*Governor of Jamaica to Secretary of State for External Affairs*

DESPATCH 141

Kingston, September 16, 1927

Sir,

With reference to previous correspondence which has been exchanged with your Government on the subject of the Canada-West Indies Trade Agreement, I have the honour to transmit to you herewith an excerpt from the local press from which it appears that the United Fruit Company contemplate establishing a Steamship Service between Kingston, Jamaica, and St. John, N.B., for the purpose of transporting bananas direct from Jamaica to Canada.

2. You will no doubt realize that the interests of the Jamaica producers of bananas will be very seriously affected if this foreign Corporation is enabled to entrench itself in the Canadian market before the ships to be provided under the Agreement are ready; furthermore, not only the interests of Jamaica but those of Canada will suffer as our ability to purchase Canadian goods will be reduced since the profits of the banana trade will be largely diverted to American shareholders instead of accruing to the inhabitants of Jamaica.

3. It is absolutely essential that the preference in bananas should not be given until ships are available for the carriage of fruit belonging to other

<sup>1</sup> C.P. 787, non reproduit.

<sup>1</sup> P.C. 787, not printed.



persons than the United Fruit Company and it is urgently to be desired that the construction of the ships provided for by the Agreement should be undertaken and completed as soon as possible.

I have etc.

R. E. STUBBS

762.

*Le secrétaire d'État aux Affaires extérieures au Gouverneur de la Jamaïque*  
*Secretary of State for External Affairs to Governor of Jamaica*

TELEGRAM

Ottawa, October 25, 1927

CONFIDENTIAL. Reply your despatch September 16th and telegram October 22nd re Steamship Service, President Canadian National Railways recommended to the Government and the Government approved several days ago of the placing of an order with Cammel Laird and Company for the building of two passenger boats to implement the treaty as far as the Jamaica Service is concerned. Order placed with Cammel Laird on account of their date of delivery being much the earliest approximately thirteen or fourteen months. Had expected that announcement of this would have been made today. Regarding banana preference it is not the intention that this shall come into effect until improved Canadian Government Steamship Service is available.

763.

*Le secrétaire à la Colonie, la Jamaïque, au secrétaire d'État*  
*aux Affaires extérieures*

*Colonial Secretary, Jamaica, to Secretary of State for External Affairs*

DESPATCH

[Kingston,] January 7, 1929

CONFIDENTIAL

Sir,

I am directed by His Excellency the Governor to acknowledge the receipt of your letter of the 27th December 1928 with regard to the question of the shipping space for bananas in the new line of steamers between Canada and Jamaica.

2. I telegraphed to you on the 29th of December, in reply to your telegram of 27th December, as follows:

Governor has discussed this matter with Jamaica Producers Association and intends very shortly to have meeting with all persons concerned in the hope of coming to an agreement which will suit everybody. Will telegraph further as soon as possible.

3. His Excellency desires me to say that he regrets his inability to answer your letter promptly but that the matter is one of very considerable difficulty.

An expression of the final views of this Government will be supplied as soon as possible but in the meantime he wishes to point out that to accede to the request of the Fruit Despatch Company for the assignment to them of all the space would be to sacrifice the principal advantage which Jamaica expects to obtain from the new service,—the release of the Jamaican producers from the domination of the United Fruit Company,—and would reduce to an almost negligible point the prospects of increased imports from Canada. As His Excellency understands the position the object of both Governments is to increase the purchasing power of the Jamaican producer, so that he may be a better customer for Canadian goods. If practically all the profits of the direct trade in bananas were to go to an alien corporation, as would be the case if the shipping space were assigned to the Fruit Despatch Company, this object would not be attained.

4. His Excellency is clearly of opinion that if the whole of the shipping space is assigned to any one body that body should be the Jamaica Producers Association, whose profits will be divided among its members whose value as potential customers of Canada will thus be increased.

But it is impossible to ignore the fact that if the United Fruit Company are prevented from shipping any bananas by the new steamers, they will not be content to give up their present market in Canada without a struggle but will ship their fruit by their own steamers, and the result of their doing so would be to set up price-cutting competition which would be ruinous to the growers of bananas and would thus be against Canadian interests for the reason, already indicated, that increase of Canadian trade must be dependent on the enhanced purchasing power of the Jamaican producer.

5. The Governor has discussed the question with the Directors of the Jamaica Producers Association and they have recognized the force of this argument and agreed that the best course will be, if possible, to come to an amicable arrangement with the United Fruit Company for the division of the available space.

It is recognized that such an arrangement involves difficulties, especially in connection with the loading and unloading of bananas, and it will be necessary to go into the matter with great care before any agreement can be effected. The Jamaica Producers Association have asked the Governor to preside over a meeting of the persons concerned with a view to such an agreement being made and he proposes to do so as soon as possible. But in the first instance it is necessary to ascertain whether the interests of any other shippers besides those of the Jamaica Producers Association and the United Fruit Company have to be taken into consideration. The only body which in the opinion of the Governor, as at present advised, need be taken into account is the Atlantic Fruit Company and before proceeding further he is taking steps to discover what their attitude is.

I have etc.

A. S. JELF

764.

*Le secrétaire d'État aux Affaires extérieures au secrétaire  
à la Colonie, la Jamaïque*

*Secretary of State for External Affairs to Colonial Secretary, Jamaica*

TELEGRAM

Ottawa, January 16, 1929

Your letter January 7th regarding Banana space on new steamers. United Fruit Company has organized new company to be known as the Canadian Banana Company, Limited, which will take over the Canadian business of the United Fruit Company in place of the Fruit Despatch Company. Canadian National Steamships state that Canadian Banana Company, Limited, not having received any definite reply to proposition to engage refrigerated space for bananas on board new ships has withdrawn offer made. This offer was brought to your attention in my telegram of December 1st.

765.

*Le secrétaire à la Colonie, la Jamaïque, au secrétaire d'État  
aux Affaires extérieures*

*Colonial Secretary, Jamaica, to Secretary of State for External Affairs*

TELEGRAM

Kingston, January 17, 1929

Your telegram 16th January. Governor recommends approval of request made by Jamaican Producers Association.

766.

*Le Gouverneur de la Jamaïque au Gouverneur général  
Governor of Jamaica to Governor General*

TELEGRAM

Kingston, March 26, 1929

Would suggest May 2nd as date on which import duty on foreign bananas should come into effect.

767.

*Le secrétaire d'État aux Affaires extérieures  
au Gouverneur de la Jamaïque<sup>1</sup>*

*Secretary of State for External Affairs to Governor of Jamaica<sup>1</sup>*

TELEGRAM

Ottawa, April 16, 1929

Your cable banana duty. Order-in-Council passed April 16th to be gazetted May 1st bringing into effect rates provided paragraph 2, Schedule

<sup>1</sup> Également expédié au Honduras britannique, à la Barbade, aux Bermudes, à la Guyane anglaise, aux îles sous le Vent, à la Trinité et au Tobago, aux îles du Vent et aux Bahamas.

<sup>1</sup> Also sent to British Honduras, Barbados, Bermuda, British Guiana, Leeward Islands, Trinidad and Tobago, Windward Islands and Bahamas.

(A) Trade Agreement 1925. New rates apply to all bananas imported into Canada on and after May 2nd, 1929. To apply, also, to bananas previously imported for consumption for which no entry for consumption was made before that date. Copy of Order-in-Council follows by mail.

768.

*Le secrétaire à la Colonie, les îles sous le Vent, au secrétaire d'État  
aux Affaires extérieures*

*Colonial Secretary, Leeward Islands, to Secretary of State  
for External Affairs*

TELEGRAM

Antigua, March 5, 1930

Following Resolution is communicated for the consideration of the Dominion Government. Begins. 19th February. At meeting of Members of the Executive Council and Members of the Legislative Council of the Colony with agricultural officers and with growers and manufacturers of sugar, under the Presidency of His Excellency the Governor, summoned to discuss marketing of sugar, fruit and vegetables in Canada, it was resolved that the Government of Canada should be urged to withdraw present duty levied on British West Indies sugar and tomatoes which have been found to prevent these Islands from benefiting to the full extent from the present Trade Agreement between Canada and British West Indies and facilities provided by Canada in Canada-West Indies steamship service. Ends.

769.

*Le Gouverneur des îles du Vent au Premier ministre*

*Governor of Windward Islands to Prime Minister*

TELEGRAM 48

Grenada, May 19, 1930

I have just received your telegram of the 5th May on the subject of trade relations between Canada and the West Indies for which I thank you.

The Colonies within the Windward group greatly appreciate action of your Government in making free of duty under British preference fresh fruits and vegetables, which should prove beneficial to my group of Islands in common with the rest of the British West Indian Islands. The Colonies within the Windward group would desire to extend reciprocity in granting like preference to commodities produced in Canada, not at present on their free list, and with this in view a Conference of representatives from the

various West Indian Colonies will shortly take place when it is hoped to revise Canada-West Indies Trade Agreement with the object of extending preferences for the mutual benefit of all parties concerned.

F. S. JAMES

770.

*Le Gouverneur des îles du Vent au secrétaire d'État  
aux Affaires extérieures*

*Governor of Windward Islands to Secretary of State for External Affairs*

TELEGRAM 51

Grenada, May 21, 1930

My telegram No. 48 of the 19th May addressed to the Prime Minister of Canada. Proposed Conference to revise Canada-West Indies Trade Agreement will take place at Trinidad on the 12th June, and I would be glad to learn, as early as possible, what commodities on which preference would benefit Canadian trade with Colonies in Windward Islands, namely, Grenada, St. Lucia and Saint Vincent. One of the subjects hoped to be discussed at proposed Conference is question of West Indian Trade Commissioner to Canada.

771.

*Le secrétaire d'État aux Affaires extérieures au Gouverneur  
des îles du Vent*

*Secretary of State for External Affairs to Governor of Windward Islands*

TELEGRAM

Ottawa, June 11, 1930

Your telegram No. 51, of May 21st. Canada is highly gratified to learn of the cordial response of the Windward Islands to the Canadian Budget making free of duty fresh fruits and vegetables from the British West Indies. Canada feels that the selection of commodities on which the Windward Islands wish to extend further preference to Canada may be left entirely to its own Government but desires, at the same time, to indicate its keen appreciation.

A list of those articles, which in the opinion of our Department of Trade and Commerce, would, if increased preference were granted, be exported to the British West Indies in greater quantity, is being forwarded by mail. This list has also been forwarded by mail to the Governor of Trinidad.

It is noted with pleasure that among the subjects to be discussed at the Trinidad Conference are the question of sending a British West Indian Trade Commissioner to Canada and of requiring the direct shipment of Canadian products under the preference.



772.

*Le ministère du Commerce au sous-secrétaire d'État  
aux Affaires extérieures*

*Department of Trade and Commerce to Under-Secretary of State  
for External Affairs*

Ottawa, July 17, 1930

Dear Dr. Skelton,

*Intercolonial West Indies Trade Conference*

Mr. R. T. Young, our Trade Commissioner in Port of Spain, Trinidad, reports that the Conference of West Indian Delegates which assembled in Port of Spain on June 26 to discuss closer trade relations with Canada concluded their sessions on the 28th ultimo. As these were held in camera he was not able to obtain any information other than what was contained in the statement given to the press, a copy of which is being attached even though you may have received the information from other sources.

Recommendations so far as can be learned were briefly as follows:

(a) That another Conference between the representatives of Canadian and West Indian Governments should be held in Canada as early as possible for the purpose of establishing closer trade relations;

(b) The appointment of a West Indian Trade Commissioner Service in Canada not later than the conclusion of any new trade agreement;

(c) Detailed proposals were made for confidential consideration by the Governments of the Colonies party to the Canada-West Indies Trade Agreement, 1925.

A copy of this letter and enclosure is being sent to the Department of Finance.

Yours faithfully,

C. H. PAYNE

CHINE/CHINA

773.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

DESPATCH 67

Downing Street, February 6, 1929

CONFIDENTIAL

Sir,

I have the honour to transmit, for the information of His Majesty's Government in Canada, a copy of a telegram from His Majesty's Minister at Peking with regard to commercial relations with China.

2. It would appear that, in making the communication mentioned in this telegram, Dr. Wang had in mind the provisions of the third paragraph of Sir Miles Lampson's note to the Chinese Minister for Foreign Affairs which is reproduced as Annex No. 2(I) to the Treaty of which copies were enclosed in my despatch Dominions No. 8 of the 2nd January, and that his intention was to convey that the Chinese Government are ready and anxious to accord "most favoured nation" treatment to goods produced or manufactured in any of the Dominions provided that the Dominion concerned grants similar treatment to goods produced or manufactured in China.

3. His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland would be glad to learn what statements on this subject His Majesty's Governments in the Dominions would wish to be communicated to the Chinese Government on their behalf.

4. It would no doubt be useful to the Chinese Government if, in any statement which may be made to them on the above subject as regards any of the Dominions, information were also given as to the treatment accorded to goods produced or manufactured in that Dominion and exported to China in the matters referred to in the fourth paragraph of Sir Miles Lampson's note to the Chinese Minister for Foreign Affairs.

I have etc.

L. S. AMERY

[PIÈCE JOINTE/ENCLOSURE]

*Le ministre britannique en Chine au secrétaire aux Affaires étrangères*  
*British Minister in China to Foreign Secretary*

TELEGRAM 1

Peking, January 2, 1929

Following from Nanking No. 147 December 29th. Dr. Wang asks me to transmit to you the following message. Begins. Please urge His Majesty's Government to persuade Dominions concerned to accord China the most-favoured-nation treatment. China in return will of course accord the same to them. [Ends]

774.

*Le secrétaire d'État aux Affaires extérieures*  
*au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

DESPATCH 95

Ottawa, March 7, 1929

Sir,

With reference to your despatch Dominions No. 67 Canada, confidential, of February 6th, 1929, with regard to commercial relations with China, I

have to advise that goods the produce or manufacture of China on importation into Canada are subject to the General Tariff of Canada. I may say that goods produced or manufactured in Canada and exported to China, are accorded the same treatment with respect to export duties, internal taxation or transit dues, as is accorded to goods exported to any other foreign country.

I have etc.

O. D. SKELTON  
for the Secretary of State  
for External Affairs

775.

*Le secrétaire d'État aux Affaires extérieures au ministre au Japon*  
*Secretary of State for External Affairs to Minister in Japan*

DESPATCH 69

Ottawa, June 19, 1930

Sir,

I have the honour to acknowledge the receipt of your despatch No. 71, of May 14th, transmitting a letter of May 1st. from Mr. Edward Stone, General Passenger Agent for the Orient of the Canadian Pacific Railway Company, with respect to the admission to Canada of wives, of Chinese race, of Canadian citizens. The Department of Immigration and Colonization, to which the question has been referred, states that under Canadian law a woman of Chinese origin or descent is not admissible to Canada as an immigrant. The fact that she may be the wife of a person in Canada, who is a Canadian citizen, does not overcome the question of her inadmissibility under the law. It would require a change in the Chinese Immigration Act to allow the admission of women of Chinese origin or descent to join their husbands in Canada.

I have etc.

O. D. SKELTON  
for the Secretary of State  
for External Affairs

776.

*Le ministre au Japon au secrétaire d'État aux Affaires extérieures*  
*Minister in Japan to Secretary of State for External Affairs*

DESPATCH 143

Tokyo, July 29, 1930

Sir,

I have the honour to acknowledge the receipt of your despatch No. 69 dated the 19th of June 1930, and referring to a letter previously received

at this Legation from Mr. Edward Stone, General Passenger Agent for the Orient of the Canadian Pacific Railway Company with respect to the admission into Canada of the wives, of Chinese race, of Canadian citizens.

I acknowledge with thanks your exposition of the law covering this matter and am only impelled to refer to it again by my re-reading of the last paragraph of Mr. Stone's letter in which he states:

You will thus see that the United States are doing everything possible to promote friendship with China and I would respectfully urge that something should be done in regard to the promotion of cordial relations between Canada and China.

As I have expressed to you in previous despatches it seems to me to be of the utmost importance that every possible step should be taken to promote in China, as in Japan, the most friendly feeling towards the Dominion of Canada. I cannot refrain from expressing the opinion that it seems to me at least a little unfortunate that Canadian citizens of Chinese race find it impossible to bring their wives into the Dominion. I can think of few things more likely to result in harmful publicity for Canada. This is made particularly apparent when we recognize as Mr. Stone points out that such an attitude does not prevail in the United States.

I shall be greatly obliged if this question may be taken into your consideration and the possibility of amending the Chinese Immigration Act to the extent necessary for this purpose be canvassed. I am firmly convinced that this is a matter of real importance and your comments upon the situation will be most gratefully received.

I have etc.

H. M. MARLER

777.

*Le secrétaire d'État aux Affaires extérieures au ministre au Japon*  
*Secretary of State for External Affairs to Minister in Japan*

DESPATCH 109

Ottawa, August 27, 1930

Sir,

I have the honour to acknowledge your despatch No. 143 of the 29th July, 1930, referring to the admission into Canada of wives of Canadian citizens of Chinese race. There is, as you indicate, much to be said against the policy which is in force in the matter, but it was adopted as part of the policy of restriction of Oriental immigration, after full consideration. It is quite conceivable that the question of Chinese immigration in general will require further consideration, and in fact some preliminary consideration has been given, but for the time being there does not seem any likelihood of alteration in the present policy.

I have etc.

O. D. SKELTON  
for the Secretary of State  
for External Affairs

778.

*Décret du Conseil**Order in Council*

P.C. 2115

September 16, 1930

His Excellency the Governor General in Council on the recommendation of the Minister of Immigration and Colonization, is pleased to rescind the regulations made by Order in Council P.C. 182, dated 31st January, 1923, as amended by Order-in-Council P.C. 1966, dated 14th August, 1930, and they are hereby rescinded accordingly.

His Excellency in Council, on the same recommendation, and having regard to the unemployment conditions now existing in Canada, is pleased to make the following regulations, and they are hereby made and established, under the authority of Section 38 of the Immigration Act, viz.,

From and after the 16th August, 1930, and until otherwise ordered, the landing in Canada of any immigrant of any Asiatic race is hereby prohibited, except as hereinafter provided:

The Immigration Officer in Charge may admit any immigrant who otherwise complies with the provisions of the Immigration Act, if it is shown to his satisfaction that such immigrant is,—

The wife or unmarried child under 18 years of age, of any Canadian citizen legally admitted to and resident in Canada, who is in a position to receive and care for his dependents.

Provided that these regulations shall not apply to the nationals of any country in regard to which there is in operation a law, a special treaty, or agreement, or convention regulating immigration.

779.

*Le ministre au Japon au secrétaire d'État aux Affaires extérieures**Minister in Japan to Secretary of State for External Affairs*

DESPATCH 225

Tokyo, October 11, 1930

Sir,

I have the honour to refer to your despatch No. 109 of the 27th of August 1930, regarding the rules governing the exclusion from Canada of the wives, of Chinese origin, of Canadian citizens. I have noted that the existing restrictions were adopted after full consideration as a part of the general policy governing Oriental immigration, and that although the question of Chinese immigration in general has already been the subject of certain preliminary discussions, there seems little likelihood of immediate revision of the present policy.

In view of the fact that this matter has been, and will probably again be taken under serious consideration at Ottawa, I venture to set forth herewith certain reflections which appear to me to be worthy of examination.



I need not, I presume, reiterate previous assurances as to my entire approval of the broad lines of Canadian policy with reference to immigration from the Orient. As I have previously stated, in my humble opinion it is not desirable from the point of view either of Canada or of Japan that a large Oriental population should be allowed to congregate on the Pacific Coast of the Dominion. Nevertheless, I cannot avoid the conclusion that the growing importance of China, both in diplomacy and trade, may possibly render inevitable the supersession of certain details of our prevailing immigration practice. It is not wholly reasonable to anticipate that the most friendly relations with the Republic of China can continue indefinitely on the present basis. Can the Republic be expected long to remain content while its Nationals are subjected to a positive discrimination by the government of another power? And particularly in the case of China, where our present policy is directed not only against Chinese Nationals, but against Canadian Nationals of Chinese race.

In this connection I am, of course, aware that the *Immigration Act* declares that "A woman who has not been landed in Canada shall not be held to have acquired Canadian citizenship by virtue of her husband being a Canadian citizen." This provision of the *Immigration Act*, however, is not enforced even in the case of Japanese, who are otherwise subject to severe restrictions. You will recall that I was instructed on this point in your comprehensive *Despatch No. 29 of the 27th of September, 1929*, in which you wrote, "The Legation will also grant a visa to immigrant wives, and children under eighteen years of age, who are British subjects under the provisions of the *Naturalization Act*, on satisfactorily establishing that the applicants are British subjects and the wives and children under eighteen years of age of persons of Japanese race and Canadian citizenship (either by birth or naturalization), and who are legally resident in Canada. *Persons in this class, being British subjects, are not subject to the numerical restrictions imposed on Japanese subjects . . . In this connection it may be noted that the wife of a British subject is deemed to be a British subject.*" In the *Canadian Nationals Act*, moreover, it is stated clearly that the "following persons are Canadian Nationals, viz.:

(a) Any British subject who is a Canadian citizen within the meaning of the *Immigration Act*:

(b) *The wife of any such citizen.*

Finally, it is declared in the *Naturalization Act* that "The wife of a British subject shall be deemed to be a British subject." In view of these facts is it improper for me to say that in the cases under discussion we are discriminating against our own Nationals solely on the grounds of their racial antecedents—and that this discrimination is uniquely applied to those Canadians of Chinese origin?

In view of the rapid development of a national consciousness among the people of China I cannot doubt that within the next few years we may find it expedient to conclude some special immigration agreement with China,

as has already been done in the case of Japan. When that time arrives we will no doubt be able to secure our present objectives, but without offence to the dignity of a sovereign state.

Recognising this development as most likely I am impressed with the importance of assuring (and it is, I am confident, the desire of the Government) that our present definitely discriminatory policy shall be enforced with a minimum of injury to the sensibilities of the Government and the people of China. If we hope to retain Chinese good-will, should our practice exceed in severity the regulations enforced by other states with an interest in Oriental exclusion similar to our own?

In the past the United States of America, as well as Canada, has excluded from its shores not only all immigrants of Chinese origin and nationality, but women of Chinese origin and United States nationality. I have been informed on reliable authority, however, that legislation is now pending in Congress which if acted upon, will alter this situation by admitting to the United States of America, on a non-quota basis, the wives, of Chinese origin, of United States citizens. It is not, I presume, necessary to point [out] that the United States as a result of its espousal of the "Open Door" policy, of its attitude in regard to the Boxer indemnity, and on other well-recognized grounds enjoys a favoured position in the esteem, and in the markets, of the Chinese Republic. It would be a misfortune if the advantages already enjoyed by the United States were, by our own action, to be further augmented.

Under these circumstances, and I do not believe that I have over-emphasized the existing and proximate situation, I cannot avoid the conclusion that it would be to the material advantage of Canada if our present policy with reference to the wives, of Chinese origin, of persons of Canadian nationality, were to be altered to remove the existing and unique discrimination against the dignity of a great and friendly nation. In view of the possible action of the United States the wisdom of devoting serious consideration to this proposal becomes even more apparent.

May I, therefore, with all respect recommend this problem to your thoughtful examination and express the hope that action may not be long delayed.

I have etc.

H. M. MARLER

780.

*Le secrétaire d'État aux Affaires extérieures au ministre au Japon*  
*Secretary of State for External Affairs to Minister in Japan*

TELEGRAM 49

Ottawa, December 22, 1930

IMMEDIATE. SECRET. The Government is considering proposal to assist sale of substantial amount of wheat to Chinese Government on part cash, part

bonds basis. Please cable immediately whether you could proceed to Nanking to conduct negotiations and would consider it advisable, also shortest time required.

781.

*Le ministre au Japon au secrétaire d'État aux Affaires extérieures*  
*Minister in Japan to Secretary of State for External Affairs*

TELEGRAM 38

Tokyo, December 24, 1930

With reference to your telegram December 22, No. 49, ready and most willing to proceed immediately. Should appreciate instructions so that engagements made in Tokio may be cancelled where necessary. May I respectfully remind you that Chinese New Year does not end until January 6. It may be difficult to receive attention in China before that date.

782.

*Le secrétaire d'État aux Affaires extérieures au ministre au Japon*  
*Secretary of State for External Affairs to Minister in Japan*

TELEGRAM 51

Ottawa, December 27, 1930

IMMEDIATE. SECRET. With reference to your telegram No. 39, I should like you to proceed to Nanking, arriving as soon as possible after the 6th January and discuss with the Nanking Government how much Canadian wheat it would be prepared to purchase, at current prices, of various grades to be determined, paying two-thirds cash against bills of lading. The Canadian Government will consider possibility of arranging if necessary for the disposition of short-time bonds of the Nanking Government for the balance.

783.

*Le secrétaire d'État aux Affaires extérieures au ministre au Japon*  
*Secretary of State for External Affairs to Minister in Japan*

TELEGRAM 52

Ottawa, December 31, 1930

IMMEDIATE. SECRET. Your unnumbered telegram of the 29th December. While question has been discussed by members of Government, no negotia-

tions have been begun, and no formal indication of desire of Nanking to purchase has been given, but it is assumed that, given favourable terms, they would be prepared to enter the market. From forty to sixty million bushels or more might be available. The Minister of Trade and Commerce is arranging for Langley and also Cosgrave to accompany you. Cosgrave has some correspondence with his minister on general wheat situation. We have asked London to advise Nanking of your coming. The Government, of course, would wish to have your view as to responsibility of Nanking Government in such a transaction.<sup>1</sup>

## CUBA/CUBA

784.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

DESPATCH 474

Downing Street, September 20, 1927

Sir,

I have the honour to transmit, for the consideration of His Majesty's Government in Canada, a copy of a despatch<sup>2</sup> from His Majesty's Minister at Havana enclosing a translation of two Presidential decrees providing respectively for the appointment of a Cuban Diplomatic Representative at Ottawa, with the character and rank of Envoy Extraordinary and Minister Plenipotentiary, and of a Commercial Attaché in Canada to be borne on the staff of the Cuban Legation in London.

2. No communication has yet been received from the Cuban Government in regard to either of these proposals, but the Secretary of State for Foreign Affairs would be grateful for an expression of the views of His Majesty's Government in Canada on the subject, more particularly as regards the suggested appointment of an Envoy at Ottawa.

I have etc.

LOVAT

for the Secretary of State

<sup>1</sup> Cette tentative de vendre du blé à la Chine n'aboutit à rien. Ou trouvera d'autres documents dans le volume 5.

<sup>2</sup> Non reproduite.

<sup>1</sup> This attempt to sell wheat to China was abortive. The remaining documents will be published in Volume 5.

<sup>2</sup> Not printed.

785.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

DESPATCH

Downing Street, September 20, 1927

CONFIDENTIAL

Sir,

In my despatch No. 474 of even date I have enclosed a copy of a despatch from His Majesty's Minister at Havana enclosing translations of two Presidential decrees providing, respectively, for the appointment of a Cuban Diplomatic Representative at Ottawa and of a Commercial Attaché in Canada to be borne on the staff of the Cuban Legation in London.

2. As regards the second of these appointments, it may be noted that a proposal has been made to place the United States Trade Commissioner staff in India under the United States Commercial Attaché in London, and an intimation is about to be conveyed to the United States Embassy that, in the event of the adoption of this proposal, His Majesty's Government in Great Britain would not feel able to accept this staff as entitled to diplomatic privilege. The reason for this action is that the only foreign diplomatic representatives whose names have hitherto been carried on the London Diplomatic List are those stationed in Great Britain, and it is felt that the inclusion in the List of representatives stationed outside this country would involve the possibility of embarrassing complications, more particularly as regards the question of their immunity from the process of the Courts of Great Britain.

I have etc.

LOVAT

for the Secretary of State

786.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

DESPATCH 132

Ottawa, October 11, 1927

Sir,

With reference to your despatch No. 474 of the 20th September asking for an expression of the views of His Majesty's Government in Canada in regard to the proposal of the Cuban Government to appoint a Cuban diplo-



matic representative at Ottawa with the character and rank of Envoy Extraordinary and Minister Plenipotentiary. I have the honour to state that in the opinion of the Canadian Government it is a matter entirely for the decision of the Cuban Government, but that if such representative is sent he will be received. The Canadian Government will be glad to know later the name of the individual selected.

I have etc.

W. H. WALKER  
for the Secretary of State  
for External Affairs

787.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM

Ottawa, October 25, 1927

Referring to your despatch No. 474 of the 20th September, communication received from Mr. A. P. Sainz de la Pena, Montreal, where for the present he will reside, stating that he has been appointed as Commercial Attaché to Cuban Legation London with residence in Canada to take care of Cuban affairs, his functions not being further defined. He asks for provisional authorization to act in his full capacity pending the receipt of the Royal exequatur. No official intimation of appointment has been received either from Cuban Government direct or from Cuban Legation London. Has any notification been made to Foreign Office and does the question of issuing exequatur for such appointment arise.

788.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM

Ottawa, November 4, 1927

CONFIDENTIAL. With further reference to your despatch No. 474 of 20th September, 1927, and confidential despatch of same date regarding communication from H.M. Minister at Havana reporting proposal of Cuban Government to appoint diplomatic representative at Ottawa with character and rank of Envoy Extraordinary and Minister Plenipotentiary, and our despatch No. 132 of 11th October, 1927, the Canadian Government on further consideration is of the opinion that if a communication is received from the Cuban Government in the terms of this proposal it is desirable to

state that while the Government of Canada appreciates the friendly attitude of the Government of Cuba and desires to strengthen the good relations existing between the two countries, it does not contemplate advising His Majesty to appoint any considerable number of diplomatic representatives in respect of Canada in the near future. It would prefer that such arrangements when made should be on a reciprocal basis and would be pleased to exchange views with the Cuban Government on this subject when circumstances make it possible to consider appointment of Ministers.<sup>1</sup>

No communication has been received on this subject from Cuban authorities beyond a letter from Sainz de la Pena styling himself Commercial Attaché referred to in our despatch of 25th October, but may state Canadian Government would not consider appointment of Attaché on such basis acceptable.

789.

*Le secrétaire d'État aux Affaires extérieures au chargé d'affaires  
britannique à Cuba*

*Secretary of State for External Affairs to British  
Chargé d'Affaires in Cuba*

TELEGRAM

Ottawa, November 15, 1927

CONFIDENTIAL. Your telegrams November 5th and 15th regarding new Cuban tariff. Canadian Government prepared to arrange modus vivendi pending further negotiations. Governor-General-in-Council has power to extend privileges of intermediate tariff on direct imports but to grant rates of French treaty or any similar concession would involve action by Parliament which will probably not assemble until February. Government is therefore prepared to extend by Order-in-Council from early date to be agreed upon, intermediate tariff rates to Cuban products imported direct from Cuba into sea or river ports of Canada in return for Cuban general tariff rates on Canadian products, pending negotiations for permanent agreement.

<sup>1</sup> Dans une lettre «personnelle et confidentielle» en date du 24 décembre 1927, par laquelle il expliquait à Vincent Massey le changement d'attitude que dénote ce document par rapport au n° 786, O. D. Skelton écrivait:

<sup>1</sup> In a letter dated December 24, 1927, and marked "Personal and Confidential", O. D. Skelton explained to Vincent Massey the change in policy reflected in this document as compared to Document 786. Skelton wrote:

Upon receipt of this information in October a reply was sent to the Foreign Office stating that in the opinion of the Canadian Government it was entirely for Cuba to decide whether a Cuban diplomatic representative of the character and rank of Envoy Extraordinary and Minister Plenipotentiary should be sent to Canada, and that if he were sent he would be received. Upon my return somewhat later I took the matter up with the Prime Minister and it was agreed that we should cable revising this position and indicating that we did not wish any appointments except on a reciprocal basis.

790.

*Le chargé d'affaires britannique à Cuba au secrétaire d'État  
aux Affaires extérieures*

*British Chargé d'Affaires in Cuba to Secretary of State  
for External Affairs*

TELEGRAM

Havana, November 17, 1927

Your telegram November 15th. Have obtained definite assurance today from the Secretary of State that Canadian products will be allowed to enter Cuba under the general tariff pending negotiations regarding the modus vivendi. Secretary of State suggested that the modus vivendi should remain in force for eight months or one year should the treaty not be concluded earlier. Secretary of State is obtaining the consent of the President and the Minister of Finance to terms already proposed for working arrangement, and I think that he will agree to drop question of concessions similarly. I will telegraph immediately I have written agreement from him.

791.

*Le secrétaire d'État aux Affaires extérieures au chargé d'affaires  
britannique à Cuba*

*Secretary of State for External Affairs to British  
Chargé d'Affaires in Cuba*

TELEGRAM

Ottawa, November 19, 1927

Your telegrams November 17th and 18th. The arrangement proposed is satisfactory in substance. We believe it would be preferable to proceed by concurrent action rather than by joint signature of agreement at present stage since securing authorization to sign such agreement would involve delay. We would therefore propose to pass immediately an Order-in-Council providing that the benefit of the intermediate tariff should be extended to products originating in and coming from the Republic of Cuba, with the customary provision that to secure the advantages aforesaid such products are to be imported direct, that is conveyed without transshipment from a port of the Republic of Cuba or from a port of a country enjoying the benefit of the preferential or intermediate tariff into a sea or river port of Canada. The Order-in-Council will further provide that this arrangement will remain in force for a term of one year should a permanent Convention not be concluded earlier. If Government of Cuba can provide simultaneously for application of general tariff for period of one year should Convention not be

concluded earlier, it can be arranged that both agreements go into force at an early date to be mutually agreed upon. November 23rd would be suitable date so far as Canada is concerned.

792.

*Le chargé d'affaires britannique à Cuba au secrétaire d'État  
aux Affaires extérieures*

*British Chargé d'Affaires in Cuba to Secretary of State  
for External Affairs*

TELEGRAM

Havana, November 21, 1927

Your telegram 19th November. Secretary of State points out that owing to inadequacy of direct shipping service between Cuba and Canada majority of products are consigned by rail in bond and they wish to secure for such consignments similar advantages to those granted to direct shipments by sea. In view of necessity for a prior settlement of this point, they would prefer not to bring agreement into force until 25th November.

793.

*Le secrétaire d'État aux Affaires extérieures au chargé d'affaires  
britannique à Cuba*

*Secretary of State for External Affairs to British  
Chargé d'Affaires in Cuba*

TELEGRAM

Ottawa, November 23, 1927

Your telegram 21st November. The provision requiring direct importation without transshipment to entitle goods to enter under the Canadian intermediate tariff is a settled policy of long standing. This provision was incorporated in trade conventions with France in 1908 and 1922 and has been applied in the case of every country without exception to which the intermediate tariff or most favoured nation treatment has since been accorded by Canada, including Italy, Belgium, Netherlands, Norway, Sweden, Denmark, Switzerland, Japan, Argentina, Colombia and Venezuela. We could not make a variation in the case of Cuba without changing the basis of our trade agreements with all the above countries. We trust that the Cuban authorities will recognize therefore that it is not possible to waive this provision. November 25th will be satisfactory date for bringing agreement into force.

794.

*Le chargé d'affaires britannique à Cuba au secrétaire d'État  
aux Affaires extérieures*

*British Chargé d'Affaires in Cuba to Secretary of State  
for External Affairs*

TELEGRAM

Havana, November 24, 1927

Your telegram 23rd November. Although owing to lack of shipping facilities for Cuban goods, Cubans consider advantages to be obtained by Canada will far outweigh any which could accrue to Cuba, they nevertheless agree to your terms of *modus vivendi*, and Presidential Decree will be signed immediately bringing this into force on November 25th.<sup>1</sup>

Secretary of State informs me that Cuba will press for inclusion of following conditions in any commercial treaty which may be concluded later:

1. That Cuban goods sealed by Cuban customs and consigned direct by rail in Canadian owned freightcars shall be entitled to enter Canada under intermediate tariff.

2. Cuban tobacco and cigars entering Canada by post in parcels of a maximum weight to be decided later shall be entitled to advantages of the intermediate tariff.

795.

*Note d'un entretien entre le sous-secrétaire d'État aux Affaires  
extérieures et le consul général de Cuba*

*Note of Interview between Under-Secretary of State for External  
Affairs and Consul General of Cuba*

[Ottawa,] December 15, 1927

Lunch and interview with Dr. A. F. Sainz de la Pena regarding his assumption that he was Commercial Attaché attached to the Cuban Legation in London but with headquarters in Montreal. It was explained to him again that such an arrangement was not satisfactory on the double ground of constitutional unsuitability, since each of His Majesty's Governments had to be considered by itself hereafter in connection with diplomatic appointments, and of certain difficulties of court jurisdiction, this latter point having been emphasized by the British Government in declining to accept a somewhat similar proposition regarding a United States Commercial Attaché to be attached to the London Legation but stationed in India.

<sup>1</sup> Le *modus vivendi* fut prolongé d'une autre année le 6 décembre 1928 et de deux années de plus le 3 décembre 1929.

<sup>1</sup> On December 6, 1928, the *modus vivendi* was extended for another year and on December 3, 1929, it was extended for two more years.



I found from Dr. Sainz that he was himself responsible for the action which the Cuban Government had taken in this matter, both the provision for the Commercial Attaché and the tentative provision for the establishment of a Cuban Legation. He appeared to have very bitter personal grievances against Dr. Bonet on the score of an interview in which Dr. Bonet had professed lack of any knowledge of Sainz's status as Attaché. I added that I would send him another letter dealing with some of the aspects of the matter covered in our interview, and he said he would send a copy of it to the Cuban State Department, as he had done in the case of my previous communication.

796.

*Décret du Conseil*  
*Order in Council*

P.C. 2295

September 30, 1930

The Committee of the Privy Council have had before them a report, dated 18th September, 1930, from the Secretary of State for External Affairs, submitting, in concurrence with the Postmaster General, as follows:

1. The Government of Canada are negotiating a Parcel Post Convention or Agreement with the Government of the Republic of Cuba.

2. Under Section 41 of Chapter 161 of the Revised Statutes of Canada, 1927, "The Postmaster General may establish and maintain a parcel post within Canada, and may arrange with the Government of Great Britain, any British Dominion or possession, or any foreign country, for the reciprocal receipt, transmission and delivery of parcels; and closed parcels, other than letters, and not containing letters, may be sent by such parcel post, and when so sent shall be liable to such charges for conveyance and to such regulations as the Postmaster General, from time to time, sees fit to make".

3. It is now deemed advisable to issue to the Postmaster General a Governmental Full Power with a view to having him conclude and sign, on behalf of the Government of Canada, any Parcel Post Convention or Agreement that may be reached with the Government of the Republic of Cuba.

The Minister, therefore, in concurrence with the Postmaster General, recommends that a Governmental Full Power be issued to the Postmaster General with a view to having him conclude and sign<sup>1</sup>, on behalf of the Government of Canada, any Parcel Post Convention or Agreement that may be reached with the Government of the Republic of Cuba.

<sup>1</sup> La négociation étant terminée lorsque le gouvernement Bennett prit le pouvoir, les pleins pouvoirs que Mackenzie King avait émis le 21 juillet ne furent pas utilisés. La Convention fut effectivement signée et ratifiée le 31 mai 1932.

<sup>1</sup> The Convention had already been negotiated when the Bennett Government took office but the Governmental Full Power issued by Mackenzie King on July 21, had been unused. The Convention was now signed and was ratified on May 31, 1932.

The Committee concur in the foregoing recommendation and submit the same for Your Excellency's approval.

TCHÉCOSLOVAQUIE/CZECHOSLOVAKIA

797.

*Le Gouverneur général au secrétaire aux Dominions*  
*Governor General to Dominions Secretary*

TELEGRAM

Ottawa, July 27, 1926

Your telegram July 23. Canadian Government appreciates the action of the Government of Czecho-Slovakia in applying preferential duties on Canadian grain and flour until August 13th pending the negotiation of a commercial treaty. It would, however, not be possible, in view of the pending General Election, to complete negotiations by August 13th. Canadian Government would therefore much appreciate extension of the preferential terms to cover a period of negotiations following the Elections on September 14th. Similar representations have been made to the Consul General for Czecho-Slovakia on receipt of information to the same effect.

798.

*Le secrétaire aux Dominions au Gouverneur général*  
*Dominions Secretary to Governor General*

TELEGRAM

London, August 9, 1926

CONFIDENTIAL. Your telegram of July 27th. His Majesty's Representative, Prague, states that note in sense desired has been handed to the Czecho-Slovakia Minister of Foreign Affairs, who informed the Acting Commercial Secretary confidentially that the Czecho-Slovakia Consul General, Montreal, had been instructed to ask what duty would be levied on Czecho-Slovakia goods entering Canada from August 14th if period of preferential duties for Canadian grain and flour were extended.

H. M. Representative states that the real desire of the Czecho-Slovak Government is to obtain the abolition of depreciated currency duty on Czecho-Slovakia imports into Canada, as they consider Czecho-Slovakia currency a new unit stabilised on gold basis for period of years with no relation to the old Austrian crown. He adds that the Czecho-Slovak Government are negotiating Treaty with Hungary and would be placed in difficult position

if extension of preferential duties granted to Canada without some concession in return. In these circumstances he suggests Canadian Government may wish to consider initiation of negotiations forthwith even if they cannot be completed until after the General Election.

799.

*Le consul général de Tchécoslovaquie par intérim  
au Premier ministre par intérim*

*Acting Consul General of Czechoslovakia to Acting Prime Minister*

Montreal, September 4, 1926

Honourable Sir,

The Czechoslovak Government acknowledges the agreement made in Ottawa on August 31, 1926 with regard to the abolition of the advance of 20% on the invoice value of Czechoslovak goods entering Canada from and including September 6, 1926 until further ordered, and advises that the reduced rates of Section 2 of the Customs Law Amendment No. 109, dated June 22, 1926 will be applied on and from September 6, 1926 until January 1, 1927, and anticipates that before that date a definite trade agreement between the two countries will be concluded.

I have etc.

F. V. KVETON

800.

*Décret du Conseil  
Order in Council*

P.C. 2339

December 10, 1927

The Committee of the Privy Council have had before them a Report, dated 7th December, 1927, from the Secretary of State for External Affairs, submitting that, in conjunction with the Minister of Finance and the Minister of Trade and Commerce, he has had under consideration the advisability of negotiating a Convention of Commerce between Canada and Czechoslovakia;

That following the receipt of a despatch of the 11th September, 1925, from the Secretary of State for Dominion Affairs, transmitting a note from the Czechoslovak Ministry of Foreign Affairs enquiring as to the possibility of a most favoured nation trade agreement between Canada and Czechoslovakia, the question has been given repeated attention;

That on the 22nd December, 1926, under authority of P.C. 2160, a provisional arrangement was effected by the Commissioner of Tariff whereby

the intermediate tariff of Canada was granted to the products of Czechoslovakia and most favoured nation treatment on certain Canadian products was granted by the Republic of Czechoslovakia;

That in this provisional agreement the governments of the two contracting parties agreed to commence before its expiration the necessary negotiations for the conclusion of a more general and definite Convention on the basis of mutual most favoured nation treatment;

That it is now considered desirable to conclude such a definite Convention; and

That it is expedient to invest appropriate persons with full powers to treat on the part of His Majesty the King in respect of the Dominion of Canada with a person or persons similarly empowered on the part of the Republic of Czechoslovakia in regard to such a Convention.

The Committee, therefore, on the recommendation of the Secretary of State for External Affairs, advise that His Majesty be humbly moved to issue Letters Patent to the Honourable James Alexander Robb, a member of His Majesty's Honourable Privy Council for Canada, a member of the Parliament of Canada, Minister of Finance and Receiver General of Canada, and the Honourable James Malcolm, a member of His Majesty's Honourable Privy Council for Canada, a member of the Parliament of Canada, and Minister of Trade and Commerce, naming and appointing them as Commissioners and Plenipotentiaries in respect of the Dominion of Canada, with full power and authority to conclude a Convention with such plenipotentiary or plenipotentiaries as may be vested with similar power and authority on the part of the Republic of Czechoslovakia, and to sign for and in the name of His Majesty the King in respect of the Dominion of Canada everything so agreed upon and concluded and to transact all such other matters as may appertain thereto.<sup>1</sup>

All of which is respectfully submitted for Your Excellency's approval.

801.

*Décret du Conseil*

*Order in Council*

P.C. 1384

August 1, 1928

The Committee of the Privy Council have had before them a report, dated 30th July, 1928, from the Secretary of State for External Affairs, submitting that a Convention of Commerce between Canada and Czechoslovakia was signed on March 15th, 1928, on behalf of Canada by the Honourable James A. Robb, Minister of Finance, and the Honourable James Malcolm, Minister of Trade and Commerce, duly authorized to that effect. This Convention has now been approved by the Canadian Parliament.

<sup>1</sup> Voir document 238.

<sup>1</sup> See Document 238.

The Committee, on the recommendation of the Secretary of State for External Affairs, advise that His Majesty the King be humbly moved to ratify the said Convention of Commerce on behalf of Canada, and that the instrument of ratification be forwarded to Ottawa to be exchanged against the ratification of Czechoslovakia.

All of which is respectfully submitted for approval.

802.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 169

Ottawa, August 7, 1928

Your despatch March 18, 1927, No. 126 regarding Extradition Treaty with Czecho-Slovakia. Order in Council was passed on August 1st 1928 providing for accession of Canada under Article 17.

Would be grateful if you could inform by telegraph Czecho-Slovak Government.

803.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM 149

London, August 17, 1928

My despatch 12th October, 1927, Dominions No. 537, Southern Rhodesia No. 537, proposed agreement with Czecho-Slovakia for the mutual abolition of visas. Agreement now contemplated takes the form of exchange of notes whereby on the one hand Czecho-Slovak Government would agree to permit all British subjects whatever origin to enter or depart from Czecho-Slovakia without visas, upon production of a valid national passport, and on the other hand, His Majesty's Governments in those parts of the Empire which participate in the agreement (viz. Great Britain, Canada, New Zealand, Union of South Africa, Irish Free State, Newfoundland and Southern Rhodesia) would undertake to maintain a corresponding obligation in respect of Czecho-Slovakia, subject in both cases to compliance with the immigration regulations in force at the place of arrival. It is assumed agreement in this form will be acceptable to the Governments concerned and unless intimation to the contrary is received within the next ten days it is proposed to instruct His Majesty's representative at Prague to proceed to an exchange of notes with the Czecho-Slovak Government on these lines.



Canada No. 149, New Zealand No. 113, Union of South Africa No. 97, Newfoundland No. 22 and Southern Rhodesia No. 59.

804.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 196

Ottawa, September 5, 1928

Your telegram No. 149 of the 17th August. No objection to proposed Agreement with Czechoslovakia for mutual abolition of visas.

#### DANEMARK/DENMARK

805.

*Le sous-secrétaire d'État aux Affaires extérieures  
au consul général du Danemark*

*Under-Secretary of State for External Affairs  
to Consul General of Denmark*

Ottawa, April 23, 1929

Sir,

In a letter of March 22nd, 1929, from the Acting Consul General of Denmark at Montreal to the Honourable the Minister of National Revenue, it was pointed out that the income from the operation in Danish waters of ships not registered in Denmark, owned by Canadian citizens, or Canadian corporations non-resident in Denmark, is not and has not yet been subject to Danish taxation. It might appear desirable, therefore, in order that income from the operation in Canadian waters of ships not registered in Canada owned by Danish citizens or Danish corporations, non-resident in Canada, may be exempt from income tax under paragraph M of section 4 of the Canadian Income War Tax Act, to arrange for the negotiation of an agreement for reciprocal exemption. Accordingly, I have the honour to submit the following draft Agreement<sup>1</sup> for the consideration of your Government. . . .

If this draft Agreement meets with the approval of your Government, I have the honour to advise that the Canadian Government will be prepared to conclude a definitive Agreement on this basis by an Exchange of Notes.

I have etc.

O. D. SKELTON

<sup>1</sup> Ce projet était essentiellement le même que celui qui est reproduit sous le n° 753.

<sup>1</sup> The draft was essentially the same as that contained in Document 753.

806.

*Le consul général du Danemark au sous-secrétaire d'État  
aux Affaires extérieures*

*Consul General of Denmark to Under-Secretary of State  
for External Affairs*

Montreal, June 11, 1929

Sir,

In continuation of my letter to you of the 22nd [26th] April, last, regarding reciprocal exemption from income tax for Danish viz. Canadian ship-owners operating ships in Canadian viz. Danish waters, I have the honour to inform you that I have now been authorized by my Government to conclude a definite agreement by exchange of notes on the outline given in your letter of the 23rd of April, last.

I beg to ask that you will kindly let me know what day it may be convenient for you to see me at Ottawa for the exchange of these notes, and may add that I am given to understand that you will be kind enough to undertake the preparations of the notes to be exchanged.

I have etc.,

J. E. BOGGILD

#### FRANCE/FRANCE

807.

*Mémoire au sous-secrétaire d'État aux Affaires extérieures*  
*Memorandum for Under-Secretary of State for External Affairs*

CONVENTION OF COMMERCE BETWEEN CANADA AND FRANCE WITH  
PARTICULAR REFERENCE TO THE EFFECT OF THE FRANCO-GERMAN  
COMMERCIAL CONVENTION AND FRANCO-AMERICAN TARIFF  
ARRANGEMENT

Ottawa, March 20, 1928

The Convention of Commerce between Canada and France, signed at Paris, December 15, 1922, became effective, on exchange of ratifications, September 5, 1923. It may be terminated at any time subject to six months' notice.

#### FRENCH TARIFF CONCESSIONS TO CANADA

To aid in appraising the general effect of the Franco-German and Franco-American tariff arrangements on Canada's position under the Convention of Commerce with France, it may be convenient to summarize the nature and

extent of France's tariff concessions to Canada. Under the Convention France accords the following tariff concessions to articles the produce or manufacture of Canada:

(1) For articles enumerated in schedule A of the Convention the French Minimum Tariff;

(2) For articles enumerated in schedule B percentage reductions from the French General Tariff or rates granted to the United States, whichever are lower.

(3) For articles other than those enumerated in schedules A and B the rates of the French General Tariff of 1910 as long as by virtue of the French decree of March 28, 1921, such tariff shall continue to be applicable to the products of the United States other than those specified in schedules A and B to the French law of March 29, 1910, or if the United States should cease to enjoy the benefit of the French Decree of March 28, 1921, a reduction of 25% of the differences between the French General and Minimum Tariffs taken from the General Tariff.

#### FRANCO-GERMAN COMMERCIAL CONVENTION

The Franco-German Commercial Convention went into effect on September 6, 1927. Germany was granted French Minimum Tariff rates on a large number of commodities and on others percentage reductions from the General Tariff. Provision was made, also, for the extension of complete most-favoured-nation treatment to Germany by December 15, 1928.

Coincident with, and growing out of, the Franco-German Convention a revision of the French Tariff was undertaken affecting about two-thirds of the tariff items.

#### Its effect on Canada

The effect of the Franco-German Commercial Convention and of the French Tariff revision which accompanied it on Canada's tariff position in France was important:

(1) Canada was subjected to strong German competition on the basis of tariff equality or better on a great many lines of merchandise hitherto excluded by Germany's unfavourable tariff position in French markets;

(2) The rates of duty on a great many commodities were increased both with respect to goods on which Canada has the Minimum Tariff and those on which Intermediate rates are granted;

(3) Canada lost many comparatively low rates which she was enjoying under the Convention and which were extended to Canada merely because they had been granted to the United States. The French Tariff revision in sweeping away many reduced rates accorded to the United States, automatically took them from Canada as well.

(4) Canada received the percentages of reduction guaranteed by the Convention with respect to articles enumerated in schedule B and the 25% reduction for articles not enumerated either in A or B.

The changes were not altogether disadvantageous to Canada, while rates were higher and German competition was loosed Canada came into an advantage over her chief competitor, the United States, on certain of whose goods more onerous rates were now imposed.

(There is no information here which verifies the statement in Mr. Philippe Roy's letter of March 2 that the recent Convention with Germany established customs duties on agricultural implements on the basis of net weight. It seems to be in direct conflict with established French policy.)

#### FRANCO-AMERICAN TARIFF ARRANGEMENT

The partial French Tariff revision, effective September 6, 1927, made a drastic change in the tariff position of a large number of United States products imported into France.

(1) Articles which were dutiable under the French Minimum Tariff continued to pay Minimum Tariff rates and a few commodities received either the former intermediate rate or the new minimum rate, whichever was higher, but

(2) On a long list of products which hitherto had been dutiable at intermediate rates only somewhat higher than the minimum the new general tariff rates, which are usually four times as high as the new minimum rates, were imposed. These duties practically excluded the products affected from the French market.

On November 21, 1927, this situation was remedied by a provisional Agreement between France and the United States under which France accorded to the United States the rates ruling prior to the tariff revision of September 6, except where the new minimum tariff rates are higher than the rates formerly applicable to American goods.

The Agreement greatly improved the American tariff position since on some lines of exports, while the rates were increased, tariff discrimination was abolished and United States secured minimum rates and on the others, while the rates to United States remained unchanged, the margin of discrimination with regard to American products was considerably decreased.

#### Its Effect on Canada

The Franco-American Agreement was generally favourable to Canada. The reduced rates granted the United States were extended to Canada in every instance where Canada was paying a higher rate.

This was not, however, a gift on the part of France. Under Article 4 of the Franco-Canadian Convention Canada is entitled, as regards goods enumerated in schedule B, to the same benefits as are granted to the United States.

Under Article 5 Canada is entitled as respects articles not enumerated in schedules A and B to claim the benefit of any concession granted to the United States *on condition that France shall be entitled to ask from Canada a reasonable and equivalent concession*. The concessions which France asks from the United States are (1) reduction of duty on certain French products; (2) abolition of certain sanitary restrictions, (3) the cessation of customs investigations in France, and (4) easing of customs regulations.

Under the Franco-Canadian Convention it appears that France may, if she wishes, claim such concessions from Canada in return for the reduced rates granted to the United States.

While the French Government has extended the reduced rates to Canada without waiting to ask for equivalent concessions, it has been intimated that the cessation of customs enquiries in France, the abolition of certain sanitary or administrative restrictive measures and the easing of certain customs regulations would be helpful in securing French Parliamentary support.

While Canada gained some reduced rates she lost an important advantage over the United States. She no longer possesses the tariff advantage which she enjoyed from September 6 to November 21, and, in addition, has lost the preference she had enjoyed on some commodities since the signing of the Convention.

#### PRESENT POSITION OF THE FRANCO-CANADIAN CONVENTION

The provisions of the Franco-Canadian Convention are not, of course, altered in any way by the negotiation either of the Franco-German Commercial Convention or of the Franco-American Tariff Agreement. Nor do these arrangements into which France has entered impose on her any obligation to terminate or to seek to effect a change in the Convention between us.

The effect of these arrangements and of the tariff legislation arising out of them is, on the whole, unfavourable to Canada. Increased duties, German competition, and loss of many of our tariff preferences over our chief competitor, the United States, conspire to rob the French Convention of its erstwhile fruits.

This "a priori" conclusion is supported by the statistics of trade. Canadian exports to France, which for the year ending December 31, 1926, amounted to \$15,281,115, for the year ending December 31, 1927, had fallen to \$11,704,457.

French exports to Canada, which for the year ending December 31, 1926, amounted to [\$]22,503,565, for the year ending December 31, 1927, had increased to [\$]26,552,814.

It is possible, of course, that such results are not due entirely to the tariff arrangements mentioned. Other laws may help. An outstanding feature of tariff relations under the Convention has been the widespread increase in French tariff rates. After some minor increases a general increase of 69% of the rates in force on nearly all commodities was effected in 1926



with the object of re-adjusting customs protection to national productions and industries, and many articles exempt from duty since the early days of the world war were restored to the dutiable column.

It is sometimes stated that the increase in tariff rates is roughly compensated for by the fall in value of the French franc, since the exchange value of the franc which stood at about 7½¢ in December, 1922, when the Convention was negotiated, now stands at somewhat less than 4 cents.

This reasoning overlooks the fact that every decline in the exchange value of the franc acts as a stimulus to exportation and, on the other hand, sets up a barrier to imports even greater than that of a customs tariff.

But whether or not due more largely to the one than to the other the general result is such as to seriously affect the position of our Convention. While our status in French markets is vastly better than if we had no Convention at all the fact that Canada accords to France the rates of the Canadian Intermediate Tariff and, in addition, reduced rates on 126 Canadian tariff items, or parts of items—all of which have already been extended by treaty arrangements to some fifteen other countries and a further extension is contemplated—makes it highly desirable that if the Convention is to stand it must yield very considerable advantage.

#### Recent Tariff Increases

It is interesting to note that in the latter part of 1927 the French duties on cereals and cereal products as well as on various animal and meat products were drastically increased and that a Bill is now before the French Parliament to further increase customs duties on a wide range of products.

J. S. M[ACDONALD]

808.

*Le ministre de France au sous-secrétaire d'État  
aux Affaires extérieures*

*French Minister to Under-Secretary of State for External Affairs*

Ottawa, le 6 décembre 1928

Monsieur Le Sous-Secrétaire d'État,

Mon Département a appelé mon attention sur le cas de Français désirant émigrer au Canada et dont le passeport n'a pu être visé par les autorités canadiennes de l'immigration, parce que ces personnes, résidant à l'étranger, leur passeport avait été émis selon les règles habituelles, par le Consulat de France de leur résidence et non en territoire français.

Cette difficulté résulterait de la disposition de l'Ordre en Conseil du 31 Janvier 1923, selon laquelle «every immigrant shall be in possession of a valid passport issued in and by the Government of the country of which such person is subject or citizen . . .»

Le cas dont il s'agit, s'est présenté à Gand à propos d'une demande d'immigration formulée par Madame CICERI.

D'une manière générale, l'interprétation sus-mentionnée de l'Ordre en Conseil du 31 Janvier 1923, semblerait interdire l'accès du Canada aux Français résidant hors de France.

Afin de me mettre en mesure de renseigner mon Gouvernement sur ce point, je vous serais obligé de vouloir bien me faire savoir si cette interprétation du règlement canadien sur l'immigration est correcte.

Veillez etc.

J. KNIGHT

809.

*Le sous-secrétaire d'État aux Affaires extérieures  
au ministre de France*

*Under-Secretary of State for External Affairs to French Minister*

No. 5

Ottawa, le 28 décembre 1928

Monsieur le Ministre,

Pour faire suite à votre lettre du six de ce mois par laquelle vous demandez si les dispositions de l'arrêté en Conseil du 31 janvier 1923 sont interprétées de façon à interdire l'accès du Canada aux Français résidant hors de France, j'ai l'honneur de vous informer que le Ministère de l'Immigration et de la Colonisation donne à entendre qu'un passeport émis par un consul ne saurait satisfaire les exigences de la loi canadienne et que tout immigrant étranger, pour pouvoir entrer au Canada, doit se munir d'un passeport émis dans le pays dont cet immigrant est sujet ou citoyen et par le Gouvernement de ce pays. Ce passeport doit être présenté dans la période d'un an qui suit la date de son émission.

Veillez etc.

O. D. SKELTON

810.

*Le secrétaire d'État aux Affaires extérieures au ministre en France*

*Secretary of State for External Affairs to Minister in France*

DESPATCH 41

Ottawa, March 2, 1929

Sir,

I have the honour to refer to your despatch No. 23 of January 22nd, 1929, and its enclosures, regarding difficulties encountered by French citizens residing out of France and desiring to immigrate to Canada in obtaining a visa by Canadian Immigration Officers stationed on the Continent of Europe.

I may say, for your information, that this matter had already been brought to the notice of the Canadian Government by the French Minister at Ottawa

to whom our views were communicated in due course. Enclosed herewith, also for your information, is a copy of the material part of the correspondence in this connection.

I have the honour to state that in the past the Canadian authorities had been unable to effect the deportation of undesirable persons whose deportation was ordered under the provisions of the Immigration Act and who had entered Canada in possession of Consular passports. This, of course, meant that the requirements of the Canadian Law could not be carried out and that in certain cases considerable expense had to be born[e] by Canadian municipalities in supporting persons subject to deportation. One of the reasons for the provision in the passport regulation, which is governed by Order-in-Council P.C. 185, dated the 31st day of January 1923, was to rectify this situation. It may be added that no such difficulty has arisen in regard to French citizens, but it will, we have no doubt, be readily appreciated that the Canadian authorities could not make any exception in the carrying out of the passport regulation in favour of France without being in the position of having to give the same consideration to other countries. Such action would very seriously affect the value of this regulation from the Canadian point of view. We believe that it is on very rare occasions that the regulation in question affects a citizen of France and that, up to the present, the same has been taken care of by the co-operation between the representative of the Immigration Department in Paris and the French authorities.

It is regretted that under the circumstances as described above the Canadian Government are unable to meet the wishes of the French Government.

I would accordingly ask you to inform the French Minister of Foreign Affairs in the sense of this statement.

I have etc.

O. D. SKELTON

for the Secretary of State  
for External Affairs

811.

*Le secrétaire d'État aux Affaires extérieures au ministre de France*  
*Secretary of State for External Affairs to French Minister*

Ottawa, August 8, 1929

Sir,

At our very complete discussion, on July 30th, of the various commercial subjects outlined in your despatch No. 37 of May 21st, 1929, and earlier correspondence, you requested some further information regarding certain aspects of the questions discussed, particularly with respect to false trade descriptions of goods, the revision of the textile schedule of our customs tariff in 1928, and the Trade Agreement of 1925, between Canada and the British West Indies, Bermuda, British Guiana, and British Honduras.

As you are aware, the suggestion of your Government that Canada establish a regulation designed to protect the appellations of origin of French wine-industry products, notably, "Champagne" and "Burgundy", has already received careful consideration by various Departments of this Government. I pointed out that under a long established Canadian commercial practice, these terms have come to have a merely generic significance and that in any case it would be a difficult matter for the Canadian Government, under the federal form of its constitution, to carry out a regulation of this character, which might often be found to conflict with provincial laws and regulations on the subject of property and civil rights. I pointed out, also that the increasing importation of French wine products into Canada may be taken as an evidence that, in practice, the absence of such regulation at present is not working any hardship on the French wine-industry.

In this connection I indicated that the stipulation set forth in Article 21 of our Convention of Commerce, by which France and Canada grant to each other, reciprocally, the treatment of nationals as respects commercial names, names of origin of products, trade marks, etc., represents all that the Canadian Government has felt is practicable under present conditions. Under this stipulation, French manufacturers or producers or their agents have an equal right with Canadian nationals, who, in like cases, are required to bring their complaint before a competent court of law. With regard to imported goods, it would be possible for the Department of National Revenue to take action once a conviction were obtained in court. Item 1290, Schedule C of the Canadian Customs Tariff, 1907, as amended, provides that the following goods shall be prohibited entry into Canada: Any goods- (a) which if sold, would be forfeited under the provisions of Part VII of the Criminal Code; or, (b) manufactured in any foreign state or country which bear any name or trade mark which is or purports to be the name or trade mark of any manufacturer, dealer or trader in the United Kingdom, or in Canada, or in any other British country, unless such name or trade mark is accompanied by a definite indication of the foreign state or country in which the goods were made or produced.

The Criminal Code will be found in the Revised Statutes of Canada, 1927, Chapter 36. The relevant sections are, more particularly, 489 and 491.

489. Every one is guilty of an indictable offence who sells or exposes, or has in his possession, for sale, or any purpose of trade or manufacture, any goods or things to which any forged trade mark or false trade description is applied, or to which any trade mark, or mark so nearly resembling a trade mark as to be calculated to deceive, is falsely applied, as the case may be, unless he proves

(a) that having taken all reasonable precaution against committing such an offence he had, at the time of the commission of the alleged offence, no reason to suspect the genuineness of the trade mark, mark or trade description; and



(b) that on demand made by or on behalf of the prosecutor he gave all the information in his power with respect to the persons from whom he obtained such goods or things; and

(c) that otherwise he had acted innocently.

491. Every one guilty of an offence defined in this Part in respect to trade marks or names, or in respect to trade descriptions or false trade descriptions for which no penalty is in this Part otherwise provided, is liable,

(a) on conviction on indictment, to two years' imprisonment, with or without hard labour, or to a fine or to both imprisonment and fine; and

(b) on summary conviction, to four month's imprisonment, with or without hard labour, or to a fine not exceeding one hundred dollars; and, in case of a second or subsequent conviction, to six months' imprisonment, with or without hard labour, or to a fine not exceeding two hundred and fifty dollars.

2. In any case, every chattel, article, instrument or thing, by means of, or in relation to which, the offence has been committed shall be forfeited.

I have, however, carefully noted the verbal representations which you made in amplification of your previous written communications on the subject and accordingly I am again taking up the matter with the interested Departments of this Government with a view to having it receive further consideration.

You will recall also, that, in reply to the view expressed on behalf of your Government, that in the tariff revision of 1928, the proportionate difference between the intermediate and the general tariffs, on a few tariff items, had not been maintained as provided in Article 10 of our Convention of Commerce of December 15th, 1922, I pointed out that the items referred to are of very little commercial importance and that the slight increase in our general tariff rates necessary to carry out the stipulations of Article 10, would be of no direct value to France. Moreover, it was pointed out that in the reclassification referred to, the Canadian Government, anxious to fully carry out the terms of our Convention, not only increased the proportionate difference between the intermediate and general tariffs on many items, to the advantage of France, but in some cases actually reduced the rates payable on French goods.

I desired, also, to bring to your attention the fact that the reclassification of the textile schedule of our tariff in 1928 was undertaken in order to bring our customs nomenclature, which had become somewhat antiquated, into harmony with the progress of modern technical developments in textile manufacture and that it is sincerely regretted that a slight departure from the strict interpretation of our treaty commitment quite unintentionally crept in. Under Canadian legal procedure a new Act of Parliament would be necessary to effect even such a slight readjustment. Nevertheless, I have no doubt that the Canadian Government may be relied upon, should your Government desire to press the matter, to introduce the necessary legislation in due course. In this connection, Mr. James A. Russell, Commissioner of Tariff,



of the Department of Finance, who was also present, was of the opinion that in drafting legislation to cover such a readjustment, his Department might not find it possible to continue to accord more than the proportionate difference which, as pointed out above, had been made in a considerable number of tariff items. In accordance with your request, I am sending you, herewith, a list of the tariff items involved in the reclassification of the textile schedule in 1928 on which the proportionate difference between the intermediate and general tariffs was increased. It will be noted that on many items the rates accorded to France have been reduced. I enclose, also a statement showing the extent to which it would be necessary to increase the general tariff rates on the items cited on behalf of your Government in order to comply strictly with the requirements of Article 10.

With reference to your request for measures to facilitate the importation into Canada of certain products originating in the French Colonies and, more particularly, vanilla, cocoa and rum, I indicated the willingness of the Canadian Government to consider any measures which might be practicable but pointed out that vanilla is already free under the Canadian Customs Tariff when imported from French Colonies and with respect to cocoa and rum that we are bound by the stipulations of our Trade Agreement of 1925 with the British West Indies to accord them special preference on these products. In accordance with your request, I have pleasure in transmitting to you, under separate cover, copy of the "Office Consolidation of the Canadian Customs Tariff". You will find the Agreement with the British West Indies on pages 216-224.

It was agreed, I think, that the question of the investigations respecting values for customs purposes carried on by Canadian customs officers in France was one which could be much better discussed between the representatives of our two Governments at Paris. Accordingly, I suggested that the matter might be referred to them for consideration at their convenience. My understanding is that you concurred in this suggestion.

With reference to the question of the free admission on conditions of reciprocity of commercial samples destined to be exhibited in commercial agencies or commercial museums forming part of consultates, I have the honour to inform you that the matter has been discussed with the interested Departments of this Government and that, while in cordial agreement with the general principle involved, this Government would request that the proposal outlined in Mr. Coursier's letter of September 26th, 1928, be set forth in somewhat greater detail, particularly as to whether it is contemplated that the proposed free admission of samples would be limited to such as would be sent direct from your Government to its accredited representatives in Canada and that such samples should be exclusively for exhibition and reference purposes at the offices of the representatives of your Government and not for distribution or sale, and should remain the property of your Government.

You will recall also that I intimated that the Canadian Government was looking into certain phases of our Convention of Commerce bearing on the importation of Canadian goods into France and would desire to initiate some discussion on the subject with your Government at a somewhat later date.

Accept etc.

O. D. SKELTON  
for the Secretary of State  
for External Affairs.

812.

*Le ministre de France au sous-secrétaire d'État  
aux Affaires extérieures*

*French Minister to Under-Secretary of State for External Affairs*

Ottawa, le 9 août 1929

Monsieur le Sous-Secrétaire d'État,

J'ai l'honneur de vous accuser réception de votre mémorandum en date d'hier relatif à la conférence que nous avons eue ensemble le 30 juillet dernier. Cet intéressant document rend un compte exact des vues que nous avons échangées et je vous remercie du soin avec lequel il a été préparé. Je ne manquerai pas de le transmettre à mon Gouvernement.

Je crois toutefois devoir vous rappeler quelques points qui ne se trouvent pas mentionnés dans votre mémorandum et que nous avons également discutés au cours de cet entretien.

Pour ce qui est du nouveau règlement de la douane canadienne relatif au 50% de la valeur des marchandises importées et de la répercussion qu'il peut avoir sur notre commerce, vous avez bien voulu me dire que le Ministre fédéral des Douanes étudierait cette question pendant son prochain séjour en France, de même qu'il examinera quelle procédure pourrait être établie pour régler les enquêtes faites sur notre territoire par les agents de son Département.

J'ai appelé votre attention d'autre part sur la différence des tarifs de transport appliqués aux vins français et aux vins canadiens sur les chemins de fer du Dominion et vous avez bien voulu me dire que votre Gouvernement prendrait cette question en considération.

De même, vous avez bien voulu me dire que votre Gouvernement examinerait avec la compagnie concessionnaire la possibilité d'établir, ainsi que je vous en exprimais le désir, une escale dans les Antilles Françaises d'un bateau de passagers de la ligne canadienne.

Nous nous sommes aussi entretenus de la question de l'exonération d'impôts des compagnies de navigation de chacun des deux pays établies sur le territoire de l'autre et de l'utilité qu'il pourrait y avoir à faire établir une nouvelle escale d'une compagnie canadienne dans un port de France, à Dunkerque,

par exemple. Enfin vous m'avez fait connaître que votre Gouvernement ne maintenait pas la demande qu'il nous avait faite de voir le whisky canadien bénéficier de notre tarif minimum.

Je prends note des suggestions que vous voulez bien formuler en vue d'établir, sur une base de réciprocité, l'admission en franchise de certains échantillons commerciaux, et j'aurai soin de les signaler à l'attention des services français compétents.

Veuillez etc.

JEAN KNIGHT

813.

*Le ministre en France au secrétaire d'État aux Affaires extérieures*  
*Minister in France to Secretary of State for External Affairs*

Telegram 50

Paris, September 12, 1929

Have had in Geneva conversation with French Government who are willing to open negotiation for new Trade Agreement. Can you send me the Experts you spoke of for a period of two or three months?

814.

*Le secrétaire d'État aux Affaires extérieures au ministre en France*  
*Secretary of State for External Affairs to Minister in France*

Telegram 60

Ottawa, October 21, 1929

Your telegram No. 50 September 12th Trade Negotiations. In view of importance of matter it hardly seems advisable to send experts unless accompanied by Minister of Finance. Prime Minister leaving shortly for trip to Western Canada. Arrangements for Session of Parliament and other pressing business make it very difficult to carry on negotiations in France this year.

815.

*Le secrétaire aux Dominions au secrétaire d'État*  
*aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM A. 14

London, March 14, 1930

Southern Rhodesia No. 19. The French Government are being informed that as from the 1st April visas will be abolished in connection with entry of French citizens and subjects into all those Colonies and Protectorates and Territories administered under Mandate by His Majesty's Government in the United Kingdom for which visas are still necessary, with the exception of Mandated Territories of Palestine and Trans-Jordania. It is being made clear that this arrangement will not apply to India.

The above communication does not cover entry into British territory of French protected persons, that is, persons who are natives of French Protectorates and Mandated Territories or persons under French protection in ex-territorial countries. In view of the fact that concession made by French Government at the end of 1928 in regard to entry into French Protectorates and Mandated Territories covers all holders of British passports, thus, of course, including British protected persons, it is considered desirable that a similar concession as regards entry into territories under the control of His Majesty's Government in the United Kingdom should be extended to inhabitants of French Protectorates and Mandated Territories (other than Syria which is not itself covered by the concession made by the French Government). It is not considered necessary to include the somewhat vague and arbitrary class of persons under French protection in ex-territorial countries.

His Majesty's Government in the United Kingdom would be glad to learn whether His Majesty's Governments in the Dominions and the Government of Southern Rhodesia are prepared to agree to the extension of abolition of visa requirement to inhabitants of French Protectorates and Mandated Territories other than Syria entering territories under their control, and if so, whether it would be convenient that this extension should come into force as from the 1st April.

The French Government have agreed to accept affidavits in lieu of certificates of character in the case of British subjects entering French Colonies. Copies of form of affidavit required will be sent by despatch.

816.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM 32

London, March 14, 1930

My telegram of today, Circular A. 14. If His Majesty's Government in Canada are willing to make concession mentioned in last paragraph but one, may we assume that they will make the necessary communication to the French Government and that no action on our part will be required.

817.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 42

Ottawa, March 27, 1930

Your telegram Circular A. 14 March 14th. Canadian Regulations do not require visa for inhabitants of French Protectorates and Mandated Terri-

tories entering Canada as temporary visitors. Immigrants, however, must produce valid passport viséd either by a Canadian Immigration Officer stationed on the Continent of Europe or by a British diplomatic or consular officer, and there is no intention to alter this requirement.

818.

*Le secrétaire d'État aux Affaires extérieures au ministre en France*

*Secretary of State for External Affairs to Minister in France*

DESPATCH 85

Ottawa, June 6, 1930

Sir,

I have the honour to state that information has been received that French regulations require foreigners proceeding to French Colonies and to the Mandated Territories of the Togo and Cameroons to produce a certificate of good conduct and morals, and that under an arrangement with His Majesty's Government in the United Kingdom the French authorities have agreed to accept in lieu of such certificate, in the case of British subjects travelling from the United Kingdom, an affidavit made by the applicant for admission in a form agreed upon.

It would be of convenience if a similar arrangement could be made as regards British subjects travelling from Canada, and while Canadian law does not admit of the use of an affidavit in such circumstances, it is considered that the desired purpose could be equally served by the use of a statutory declaration under the Canada Evidence Act, the false making of which is subjected to a legal penalty. If it should be acceptable to the French authorities, it would be proposed to make use of a form of statutory declaration closely corresponding to the form of affidavit arranged with His Majesty's Government in Great Britain, and a copy of the proposed form is herewith enclosed.

I would request you to bring the matter to the attention of the French Government and ascertain whether they would agree to accept this form in lieu of the certificate of good conduct and morals required by the French regulations, as the system in force in Canada does not provide means for furnishing an official certificate of this description.

I have etc.

O. D. SKELTON

for the Secretary of State  
for External Affairs



819.

*Le ministre en France au secrétaire d'État aux Affaires extérieures*

*Minister in France to Secretary of State for External Affairs*

Paris, December 26, 1930

Sir,

Referring to your Despatch No. 85, of June 6th, 1930, I have the honour to forward you herewith three copies of a communication<sup>1</sup> just received from the French Foreign Affairs accepting the Statutory Declaration on the Canada Evidence Act in lieu of the Certificate of Good Conduct and Morals as required by the French regulations.

I have etc.

PHILIPPE ROY

#### ALLEMAGNE/GERMANY

820.

*Le Gouverneur général au secrétaire aux Dominions*

*Governor General to Dominions Secretary*

DESPATCH 12

Ottawa, January 10, 1927

Sir,

With reference to your despatch, Dominions No. 535 of the 24th November last, regarding the proposed arrangement with the German Government for the mutual abolition of visas, I have the honour to inform you that if such an agreement is concluded<sup>2</sup> with the German Government, the Canadian Government is prepared to admit German nationals coming to Canada as non-immigrants without visas, though in the case of German immigrants sailing directly or indirectly from the Continent of Europe, the Order-in-Council of the 31st January, 1923 (P.C. 185), requiring the visa of a Canadian Immigration Officer stationed on that Continent would apply.

I have etc.

WILLINGTON

<sup>1</sup> Non reproduite.

<sup>2</sup> Un accord fut conclu au moyen d'un échange de notes effectué à Londres le 3 décembre 1927.

<sup>1</sup> Not printed.

<sup>2</sup> The agreement was concluded by an exchange of notes in London on December 3, 1927.

821.

*Le consul général d'Allemagne au Premier ministre*  
*Consul General of Germany to Prime Minister*

Montreal, March 21, 1927

Sir,

As you are aware, conversations with regard to the conclusion of a German-Canadian commercial treaty on a most favored nation basis have been carried on for some time past. From the outset, the most difficult point appeared to be the question of the duty on Canadian flour. . . .

I am authorized by the instructions given to me by the Reichskabinett to offer as a lowest limit a duty of 10.50 RM. for flour at a wheat duty rate of 5.50 RM. As the duty on wheat will, until July 31st, 1927, remain at 5 RM., this would mean that the duty on Canadian wheat flour until the said date would, in consequence of the above mentioned ratio of reduction, automatically be reduced to 9.75 RM.; and it would again be reduced to 9.75 RM. if at any future date the duty on wheat should be reduced from 5.50 RM. to 5 RM.

I have the honour to transmit to you this proposal of the German Cabinet and to ask you to please inform me of the decision of your Government with regard to this proposal. . . .

If the German Government, in a treaty with Canada, should agree on certain rates of duty for grain and flour, it would not be able to go beyond these rates as against Canada in any legislation dealing with new rates of duty to be enforced on August 1st. If, therefore, a rate of duty should, by a treaty with Canada, be fixed at 5 RM. for rye and oats, at 5.50 RM. for wheat and at 10.50 RM. for flour, Canada would have the absolute guarantee that the rates of duty for these principal articles of exportation cannot be raised while the treaty is in force.

I have etc.

L. KEMPF

822.

*Le ministre des Finances au consul général d'Allemagne*  
*Minister of Finance to Consul General of Germany*

Ottawa, April 7, 1927

Dear Sir,

Referring to your communication of the 21st ultimo addressed to the Prime Minister, in which you submit proposals as a basis for a trade agreement between Germany and Canada, I have to inform you that I am unable

to recommend to my colleagues the introduction in the House of Commons of legislation providing for an agreement upon the terms which you have offered.<sup>1</sup>

Yours faithfully,

JAMES A. ROBB

823.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 2

Ottawa, January 7, 1928

Your telegram 6th January abolition of visa agreement with Germany. His Majesty's Government in Canada is prepared to accept stipulations summarized in your telegram except that in clause (C) referring to recognition of German seaman's discharge book as valid substitute for national passport. This could only be accepted on understanding that recognition called for is limited to the seaman as a seaman and not as an immigrant. Under Canadian law a seaman is not an immigrant unless he applies for or attempts landing in Canada. If a seaman desires to apply for admission to Canada as an immigrant he should secure national passport, apply for immigration visa before sailing and travel as passenger. It might be further explained that as an identification certificate the seaman's discharge book form issued by Canadian Department of Marine calls for name, place of birth, address and a personal description of the seaman to whom it is issued including his photograph which must be pasted in proper place on form.

824.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM 5

London, January 14, 1928

PRIORITY. Your telegram 7th January No. 2. Before communicating with the German Ambassador, the Secretary of State for Foreign Affairs would be glad to learn (a) whether it is correct to assume that the German seaman's discharge book would be recognized as valid substitute for national passport in the case of a seaman wishing to enter Canada temporarily for a definite purpose, e.g. with a view to reshipment. (b) What document a seaman, paid off or discharged in a Canadian port, is required to

<sup>1</sup> Les négociations se poursuivirent jusqu'à la conclusion, en 1933, d'un accord qui entra en vigueur le 1<sup>er</sup> janvier suivant.

<sup>1</sup> Negotiations continued but agreement was only reached in 1933, effective January 1, 1934.

produce for the purpose of examination by an Immigration Officer under Section 52 (ii) and Section 33 of Immigration Act. Should be grateful for early reply.

825.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 12

Ottawa, January 19, 1928

Your telegram 14th January No. 5. Answering inquiries contained therein, (a) It is correct to assume the German seaman's discharge book would be recognized as a valid substitute for a national passport in the case of a seaman entering Canada temporarily; for example, with a view to reshipment. (b) The seaman, if seeking entry to Canada as an immigrant, must present the regular national passport, unless British or United States citizen exempt under our passport regulation, P.C. 185 of the 31st January, 1923. A German seaman could not therefore be admitted to Canada as an immigrant if in possession only of a seaman's discharge book, though he would have no difficulty in entering temporarily as a non-immigrant.

HONGRIE/HUNGARY

826.

*Le consul général de Hongrie au Premier ministre  
Consul General of Hungary to Prime Minister*

No. 1216

Montreal, April 26, 1927

Your Excellency,

Under date of November 27th, 1926 the Acting Prime Minister asked me to ascertain whether a proposal of the Government of Canada to the effect of securing on condition of reciprocity, the entry of Canadian goods into Hungary on most-favoured-nation terms, by virtue of the second paragraph of Article 20 of the United Kingdom Treaty with Hungary signed on July 23rd, 1926, would be favourably considered by Hungary.

I am pleased to inform you that I am authorized by the Royal Hungarian Government to communicate to you the following:

On the ground of the 2nd. alinea of paragraph 20 of the Hungarian-British Treaty of Commerce and Navigation, signed on July 23rd 1926 and after the coming into effect of said treaty, the Royal Hungarian Government

are ready to issue a Ministerial Order to the effect that goods produced or manufactured in Canada entering Hungary enjoy a treatment on terms of the most-favoured-nation, and this beginning from the date, upon which the Canadian Government decrees the same treatment for goods produced or manufactured in Hungary.

The Royal Hungarian Government will be in a position—by virtue of the authorization bestowed upon it through the ratification by the Parliament of the Hungarian-British Treaty of Commerce and Navigation, which ratification is expected to be voted by the Parliament of Hungary in the near future—to, without further legislative assent, automatically put into effect the ordinance decreeing the treatment on terms of the most-favoured-nation of Canadian goods. Such ordinance, the Royal Hungarian Government will issue forthwith after having received official notification that the Canadian Government is desirous of availing itself of the privilege assured it by paragraph 20 of the Hungarian-British Treaty of Commerce and Navigation, and, in order to assume reciprocal advantages, is willing to accord, from a date to be established, the treatment on most-favoured-nation terms, to Hungary. This means that the reciprocal treatment on most-favoured-nation terms can—upon the initiative taken by the Canadian Government—be agreed upon at any time.

When making the above declaration, the Royal Hungarian Government desires to state that in order to place the commercial relations with Canada on a more stable and intimate basis, it would more welcome, if the prospective commercial agreement were not solely limited to the most-favoured-nation terms, but would comprise the adhesion by Canada to the entirety of the Hungarian-British Treaty of Commerce and Navigation. In this case, according to paragraph 20 of the said Treaty it would be necessary that such desire of His Britannic Majesty be officially notified to the Royal Hungarian Government by the British Legation in Budapest. If the entire Hungarian-British Treaty were adopted by Canada, the putting into effect of same would not necessitate any previous approval by Parliament and would be put into force by the Royal Hungarian Government by ordinance. In this case the validity of the aforesaid Treaty could be extended to Canada by an exchange of notes between the Canadian and Royal Hungarian Government.

Said Treaty would remain in force until the expiration of one year from the date, on which either of the two contracting parties shall have denounced it. In the absence of such notice, the Treaty would remain in force until the expiration of the Hungarian-British Treaty of Commerce and Navigation.

When taking pleasure in recommending the above for the consideration of the Government of the Dominion,

I have etc.

ALBERT DE HAYDIN



827.

*Le sous-secrétaire d'État aux Affaires extérieures au consul général  
de Hongrie par intérim*

*Under-Secretary of State for External Affairs to Acting  
Consul General of Hungary*

Ottawa, June 22, 1928

Sir,

With reference to your letter of May 4th and earlier correspondence concerning trade relations between Canada and Hungary, I have the honour to advise that an Act to provide that goods produced or manufactured in Hungary shall receive in Canada treatment as favourable as that accorded to goods produced or manufactured in any other foreign country, so long as goods produced or manufactured in Canada enjoy in Hungary the same treatment as is enjoyed by similar goods produced or manufactured in the United Kingdom, was passed by the Parliament of Canada on April 25th and received the Royal Assent June 11th, 1928.

It is proposed to fix by proclamation in the "Canada Gazette", as provided in Section 5 of the Act, the 1st of August next as the day from which the favoured-nation treatment shall be extended to Hungarian goods, provided that notice has been received that the benefits provided in Article 20 (second paragraph) of the Treaty of Commerce and Navigation between the United Kingdom and Hungary, signed on July 23, 1926, will be extended to Canadian goods from the same date.

The Act, a copy of which will be sent to you as soon as it is received from the King's Printer, authorizes the grant of favoured-nation treatment to a number of other European countries in addition to Hungary, and steps are being taken through the British Foreign Office to ascertain from the Hungarian and other governments concerned whether they agree to August 1st as the date from which the treaty benefits will be made effective.

I have etc.

O. D. SKELTON

828.

*Le consul général de Hongrie par intérim au secrétaire d'État  
aux Affaires extérieures*

*Acting Consul General of Hungary to Secretary of State  
for External Affairs*

No. 2370

Montreal, June 27, 1928

Honourable Sir,

I am instructed by the Royal Hungarian Minister of Foreign Affairs to bring to the knowledge of His Britannic Majesty's Government in Canada

certain difficulties encountered in Passport matters by Hungarian Nationals in the hands of the Canadian Representatives established for the control of Immigrants at the ports of Hamburg and Antwerp, and to inquire whether the Canadian Government would not see fit to take measures into consideration that will remedy such conditions in the future in accordance with the general attitude and decision of the Passport Conference held some time ago in Paris.

It happened lately that such Hungarian Emigrants bound for Canada, who were not in possession of new passports but had their old passports renewed or extended in a regular way, which—with other words—were valid and genuine, had been refused embarkation and passage on boats for Canada at the ports of sailing (Hamburg, Antwerp) by the Canadian Immigration officers.

I am directed to respectfully point out that it happens quite frequently that people are not able to depart from Hungary for Canada in the same year, in which they obtain their passports, either due to family affairs, lack of funds or because the steamship companies are not able to include them into their allotment, and the consequences are that their passports expire. Instead of getting a new passport, which procedure means more expense and formalities, they resort to having the old passports renewed or extended and travel with the same.

In view of the fact that all countries accept the renewed or extended passports as valid and, furthermore, since the Paris Passport Conference regulated this question, and, finally, since holders of renewed or extended Canadian or British passports have no difficulties whatever in obtaining visas and entering Hungary:

The Hungarian Government finds it injurious to the interest of Hungarian Immigrants that they are discriminated against in such way, and has the honour to invite the Canadian Government to kindly take the necessary measures to stop such practice of the Canadian Immigration officers.

Requesting to kindly notify me of your decision,

I have etc.

LOUIS VACZEK

829.

*Le sous-secrétaire d'État adjoint aux Affaires extérieures  
au consul général de Hongrie par intérim*

*Assistant Under-Secretary of State for External Affairs to  
Acting Consul General of Hungary*

Ottawa, July 13, 1928

Sir,

In reply to your letter of 27th June last calling attention to difficulties, with reference to passports, encountered by Hungarian Nationals at the

hands of Canadian Immigration Representatives at Hamburg and Antwerp, I have the honour to inform you that, the matter having been referred for the consideration of the Department of Immigration and Colonization, I have received from the Deputy Minister of that Department a reply, copy of the pertinent portions of which I subjoin:

1. It is suggested that the Canadian Government take measures into consideration that will remedy the renewal or extension of passports in accordance with the general attitude and decision of the Paris Passport Conference. I take it that the Conference at Paris dealt generally with the subject of passports. Our attitude regarding the question of passports is governed entirely by the provisions of the Immigration Act and in so far as the entry to Canada of immigrants is concerned, we cannot regard the Immigration Act as subordinate to the decisions of the Paris Passport Conference.

2. The Acting Consul General states that holders of renewed or extended Canadian passports have no difficulty in obtaining Hungarian visas and entering Hungary. I wish you would be good enough to assure the Acting Consul General that Hungarians who are visiting Canada not only do not require a visa but they do not require a passport. It, therefore, follows that there are greater restrictions in the case of a Canadian visiting Hungary than in the case of a Hungarian visiting Canada.

3. The Acting Consul states that his Government finds it injurious to the interests of Hungarian immigrants that they are discriminated against in this way and invites the Canadian Government to take the necessary measures to stop such practices by the Canadian Immigration Officers. I would like to make it clear that there is no discrimination whatever in the Passport Regulation as between immigrants from Hungary and immigrants from any other Continental country coming to Canada. I take it that the point is more one of reciprocity than of discrimination inasmuch as it would appear by the communication from the Acting Consul General of Hungary that his Government accepts the renewal or extension of Canadian passports. In this connection, however, I would like to emphasize the fact that there is lack of reciprocity on the part of the Hungarian Government in the case of Canadians who are visiting Hungary because I assume that they must be in possession of Canadian passports whereas Hungarian visitors to this country do not require Hungarian passports under our law. If, therefore, reciprocity is desired, I would respectfully suggest that Canadian visitors or tourists be permitted to enter Hungary without being in possession of passports in the same way as Hungarian visitors or tourists are admitted to Canada.

With reference to the main subject covered by the Acting Consul General's letter, I may say that under date of the 15th of May last our London Office was instructed by cable to advise our Officials at Continental inspectional points that passports, with the exception of Russian passports renewed in and by the Government of the country of which the immigrant is a citizen, would be considered valid within the meaning of the Order-in-Council in that behalf provided the passport was presented within one year of the date of renewal.

I have etc.

W. H. WALKER

## JAPON/JAPAN

830.

*Le ministère des Affaires extérieures au consulat général du Japon*  
*Department of External Affairs to Japanese Consulate General*

## AIDE-MÉMOIRE

The Canadian Government regrets that circumstances have prevented an earlier resumption of the discussion of the proposed revision of the agreement effected in 1907 between the Government of Japan and the Government of Canada on the subject of Japanese immigration into Canada. In view of this lapse of time and of the desirability of bringing the discussion to a focus, it is considered advisable to make a brief summary of the results of the negotiations thus far.

The extensive changes in the general immigration policy of Canada since 1907, the developments in the immigration policy of other countries bordering on the Pacific, and the very rapid growth of Japanese population in Western Canada, have made it essential, in the view of the Government of Canada, to seek to bring the agreement effected twenty years ago into closer harmony with these changed conditions. It is the earnest wish of the Canadian Government to effect this change by mutual agreement rather than by legislative action. The Government of Japan, which has loyally carried out its understanding of the existing agreement, has expressed its appreciation of this position, and its readiness to consider proposals for revision.

The resulting discussion has led to agreement on the following points:

1. That a new agreement covering Japanese immigration into Canada should be drawn up, if possible, and made public simultaneously at an agreed date in Japan and in Canada.

2. That the general immigration law and regulations of Canada should govern Japanese immigration into Canada except as explicitly provided in the revised agreement.

3. That non-immigrants, as described in section 2, sub-section (g) of Canadian Immigration Act, should continue to be free to enter Canada and to remain in Canada so long as they retain their status.

4. That immigrants of the following classes only, and under the conditions noted, shall be admissible:

- (a) Agricultural labourers brought in by Japanese resident agricultural holders in Canada and specially required for the promotion of such agriculture (not more than 5 to 10 per hundred acres), and domestic servants, specially engaged by Japanese residents for (bona fide) personal or domestic service; in both cases after pre-investigation of applications by the Canadian immigration officials.



(b) Returning Japanese originally admitted legally and in possession of or acquiring Canadian domicile; certificates indicating eligibility to return to be secured from Canadian immigration officers at the port of embarkation before leaving Canada.

(c) Wives and children of Japanese who were legally resident in Canada at the date of the signing of the revised agreement: children to be defined as being under eighteen years of age and the practice of bringing picture brides to be terminated.

That the number of agricultural labourers and domestic servants admissible per annum is not to exceed 125, and the number of wives and children of returning Japanese is not to exceed 125 per annum.

(Note: agreement on this point has been stated by the Government of Japan to be contingent upon agreement as to the admission of merchants.)

5. That in addition to non-immigrant merchants coming to Canada for temporary purposes, the Canadian Government will agree to the admission of

(a) merchants for permanent or indefinite stay, engaged in international trade and possessed of a minimum capital of \$2,500, Canadian currency, to the number of twelve per annum, and

(b) merchants engaged in international trade, having in their possession, to invest in Canada \$20,000 Canadian currency; merchants of either of these categories will be entitled to bring in their wives and children after they have become definitely settled in business in Canada.

6. That the new agreement will be applied, beginning with those granted passports after the expiration of three months following the conclusion of the agreement. The Government of Japan will undertake that the number of passports issued during the three-month transition period does not exceed the number issued during the corresponding period of the previous year.

7. That Japanese previously legally admitted into Canada who have returned to Japan for temporary purposes and have been granted passports for return to Canada before the expiration of the period of transition, and who consequently do not possess certificates from the Canadian immigration authorities, will be readmitted on certificate from a Japanese consul in Canada.

The points which appear to require further consideration are as follows:

8. The Government of Japan has proposed (vide aide-memoire of June 19, 1926) that Japanese born in Canada or brought in as children shall have the right to bring in wives and children from Japan, as they cannot, like adult immigrants, be considered to have entered Canada with knowledge of the limitation as to bringing in families.

The Government of Canada would not be prepared to concur in this extension of the present understanding. It is true that adult immigrants enter with fuller knowledge of the limitation, but this fact, while a consideration in support of the limitation, is not its basis. The proposal of the Canadian Government is an extension of the provision made in 1907, which, in its view, was meant to give the right to bring in families only to returning immigrants who had resided in Canada before that time; in the words of Hon. R. Lemieux, the Canadian negotiator, at the time (Dec. 10, 1907), "the *present* Japanese residents" might be considered as "having vested rights". The children referred to in the proposal of the Japanese Government neither were resident in Canada in 1907 nor have "vested rights".



9. The Government of Japan has proposed that the number of merchants admissible under 5a above to be set at 20 instead of 12. A. The figure 12 was set for the reason that, according to Canadian statistics the average admission per annum of adult males of the trading class which includes merchants does not exceed this number, therefore, the average admission of merchants per annum is considerably less and this figure 12 thus provides for a reasonable expansion.

10. The Government of Japan has proposed that merchants who carry on business to the extent of \$100,000 per annum, or who have invested a capital of \$50,000 in Canada, should be permitted to bring in clerks. No definite number of such clerks is suggested. This proposal would involve an increase rather than a reduction of immigrants, and immigrants of a type whose economic competition is felt particularly keenly. The numbers admissible would be indefinite; a clerk so admitted could within a year set up in business and so not only entitle his late employer to bring in another man but could himself in time import others. The immigration policy of Canada of recent years has definitely taken the line of encouraging agricultural rather than urban immigration; clerks from Continental Europe are not admissible except under special permit. Much as the Government of Canada desires to extend trade with Japan as with Europe, it could not change its long established and general policy in this respect. Public opinion would regard an agreement which included such an indefinite extension as much less desirable or defensible than the present one. The Government of Canada wishes, however, to meet the views of the Government of Japan as fully as is possible, and is therefore prepared to agree that Canadian branches of Japanese firms or substantial Japanese firms engaged in international trade in Canada should be allowed to bring in for temporary purposes responsible officials who cannot be secured in Canada, under permit. This arrangement, it is hoped, would meet the fundamental objects of the proposal of the Japanese Government.

In conclusion, it may be observed that whether account is taken of the greatly increased stringency of the general immigration policy of Canada in recent years, or of the legislation in force in the United States, Australia, New Zealand, South Africa, and other Pacific communities as to Japanese immigration, or of the popular sentiment in Western Canada itself, evidenced in movements not merely for exclusion but for repatriation, it is believed that the Government of Japan will agree that the Canadian proposals constitute the most marked endeavour to meet the wishes of the people of Japan made by any Pacific community, and that they represent also the utmost programme to which any Canadian Parliament is likely to accede.

The Government of Canada earnestly hopes that the Government of Japan will concur in its view of the character of those tentative proposals and of the desirability of securing an agreement on such lines by common consent.

It is hoped that it will prove convenient for the Government of Japan to intimate its views on the question at an early date.

Ottawa, August 23, 1927

[W. H. WALKER]

831.

*Le consul général du Japon au sous-secrétaire d'État  
aux Affaires extérieures*

*Japanese Consul General to Under-Secretary of State  
for External Affairs*

Ottawa, May 14, 1928

Sir,

I have the honour to present to you herewith a Memorandum containing the views of the Japanese Government in regard to further restrictions of Japanese emigration to Canada.

It may be added that the Japanese Government, having given the most careful consideration to the Prime Minister's suggestions contained in the covering note of the last Canadian Memorandum, fails to see the advantage of concluding the Agreement on a reciprocal basis, as it is disposed to settle the question at issue in the manner stated in Paragraph 1, Section 1, of the enclosed Memorandum.

I have etc.

S. TOMII

[PIÈCE JOINTE/ENCLOSURE]

*Mémoire*

*Memorandum*

[Ottawa, May 14, 1928]

I

The Japanese Government, having studied with utmost care the Memorandum containing the views of the Canadian Government in regard to further restrictions of Japanese emigration to Canada, which was presented by the Under-Secretary of State for External Affairs to the Consul-General of Japan at Ottawa on April 5, 1928, takes note that the two Governments are now prepared to agree on the following points:

(1) The Japanese Government will have recourse to its self-imposed administrative measure in further restricting Japanese emigration to Canada. The purport of this measure described in Paragraph 2, Section I of this Memorandum, shall be communicated to the proper authorities of the Canadian Government through the Consul-General of Japan at Ottawa.

(2) This communication will be confined to a brief statement to the effect that the Japanese Government does not contemplate that the total number of emigrants to whom the Japanese Government will issue passports, including agricultural labourers, domestic servants and wives and children of Japanese emigrants legally resident in Canada, shall in any year exceed a certain number (the number to be agreed upon by the two Governments), with a reference to the termination of the practice of sending for picture brides.

Japanese emigrants returning to Canada, originally admitted legally and in possession of or in the act of acquiring Canadian domicile, would not be included in the limited number mentioned above.

It is understood that Japanese resident immigrants, irrespective of the time of their original entry into Canada, shall be entitled to bring in or send for their wives or children.

(3) The Japanese Government is not disposed to make public the text of the communication described in Paragraph 2 of this Memorandum. It is prepared, however, to acquiesce in a proposal that the communication be made public by the Canadian Government at an early date to be agreed upon.

(4) The Canadian Immigration Act and Regulations shall apply to all Japanese coming to Canada except in so far as such application would conflict with the specific understanding to be reached by the two Governments. It is understood that the Canadian Government does not contemplate the introduction of restrictive legislation or regulations specifically applicable to immigration from Japan.

(5) P.C. No. 1202, regarding the entry of skilled or unskilled labourers at British Columbia ports, is not applicable to Japanese emigrants.

(6) Applications of Japanese leaving Canada and desiring to return to that country, or applications for the entry of agricultural labourers, domestic servants, wives or children of Japanese emigrants resident in Canada, should be accompanied by certificates from a Japanese Consul in Canada when presented to the Canadian authorities.

(7) The restrictions contained in the communication referred to in Paragraph 2, Section I, of this Memorandum are to be applied commencing with the passports granted following the expiration of three months after the date of the communication. The Japanese Government does not contemplate that the number of passports granted during the three months transition period will exceed the number issued during the corresponding period of the previous year.

Japanese lawfully admitted to Canada as emigrants and possessing or in the act of acquiring Canadian domicile as defined in the Canadian Immigration Act, and who leave Canada for temporary purposes as recognised in the said Act, will be readmitted to Canada on presentation of a certificate secured before leaving Canada from the Canadian Immigration Officer-in-Charge at the port of embarkation, establishing that the holder was returning to Japan for a temporary purpose, provided that the certificate is presented within the period prescribed therein.

Japanese previously lawfully admitted as emigrants to Canada, who had returned to Japan for temporary purposes, and have been granted passports for return to Canada before the expiration of the transition period mentioned above, and who consequently do not possess certificates from the Canadian immigration authorities, will be readmitted on certificate from a Japanese Consul in Canada.

## II

The Japanese Government is happy to state that it is prepared to agree to the Canadian proposals described hereunder:

(1) When the communication referred to in Paragraph 2, Section I, of this Memorandum is made public, the Canadian Government issues simultaneously a brief statement to the effect that in the case of immigration from Japan as from other countries, the Immigration Act and Regulations, including the provisions for vising of passports, and preinvestigation of applications, will be administered by Canadian Officials.

(2) (a) A maximum of twenty Japanese officials and clerks of a type not available in Canada, required by substantial companies engaged in international trade, will be admitted into Canada after the usual preinvestigation, or viseing.

(b) Such officials and clerks if entering Canada as immigrants would be included within the maximum number of the Japanese emigrants yearly admissible into Canada.

(c) If, on the other hand, they enter for such temporary purposes, as non-immigrants, they would be admitted for a period extending to five years on yearly permits, in conformity with the practice always applied under Section 4 of the Immigration Act.

It is understood that non-immigrant officials and clerks are entitled to bring in or send for their wives and children, who would be admitted into Canada as non-immigrants.

(d) In the case of firms with head offices in Japan, applications should be addressed to the Canadian Legation, or pending its establishment, to a British Consulate in Japan, and in the case of firms with head offices in Canada they should be addressed to the Canadian Department of Immigration.

It is understood that the permits which will be granted to these applicants shall be obtainable without any undue formality and with the least possible delay.

### III

(1) The Japanese Government proposes that as an exceptional case to (c), of Section II, some officials or clerks after living in Canada for five years will be permitted to continue to stay in that country for a few years more, on yearly permits, without losing their status as non-immigrants.

(2) It further proposes that as an exceptional case also to (c) mentioned above, some non-immigrant officials or clerks be permitted to remain in Canada longer than the period suggested in the preceding paragraph with the understanding that at the expiration of this period they will acquire the status of immigrants, and that, in the year in which they thus become immigrants, they will be included in the maximum number of the Japanese emigrants admissible into Canada for that year.

### IV

The Japanese Government earnestly desires that the emigration question which has been under discussion for the past three years between the two Governments will be settled at an early date in a manner fair and honourable. While it appreciates that the proposal to set a time limit on the original entry into Canada of the Japanese resident immigrants who are entitled to bring in or send for their wives or children has been withdrawn, it is not at liberty to agree to the proposal of the Canadian Government to the effect that the inclusive figure of all emigrants to whom the Japanese Government would issue passports, including agricultural labourers and domestic servants, as defined in the Agreement of 1907, and wives and children of Japanese emigrants now or hereafter legally resident in Canada, should be set at a maximum of 150 per annum, with the understanding that the proportion of females in this total would not exceed one-half.

It will be observed that in the Agreement of 1907 it was provided that emigrants, including agricultural labourers and domestic servants to whom the Japanese Government grants passports, would not exceed 400 per annum, and that in 1923 the Japanese Government announced a further reduction of this number to 150. Although the Agreement provides no restriction whatsoever in regard to the entry of wives and children into Canada, the Japanese Government has been always mindful not to create any circumstances embarrassing to the Canadian Government by leniently granting them passports. It may be recalled that, during the course of the negotiations in the past three years, the Japanese



Government has on manifold occasions manifested its readiness to meet the desires of the Canadian Government as far as possible by agreeing to terminate the practice of sending for picture brides, reduce the maximum number of admissible emigrants and withdraw its proposal in respect to the entry of merchants, as well as by acceding to the proposals of the Canadian Government described in Paragraph 4, Section I, and Section II, of this Memorandum. In these circumstances, the Japanese Government is compelled to maintain its proposal to the effect that the total number of admissible agricultural labourers, domestic servants, and wives and children of Japanese emigrants, now or hereafter legally resident in Canada, shall not exceed 200 per annum.

The Japanese Government is in entire accord with the views of the Canadian Government that a satisfactory and lasting solution of the question at issue would provide a propitious prelude to the exchange of diplomatic envoys between the great Dominion and the Empire of Japan and help to cement further the friendly relations existing for years between the two Countries. It is with this view in mind, that the Japanese Government, despite almost innumerable difficulties involved, states that it is prepared to agree to the proposal of the Canadian Government presented by the Under-Secretary of State for External Affairs to the Consul-General of Japan at Ottawa on September 21, 1925 to the effect that, the number 200 should be divided equally between wives and children on one side, and agricultural labourers and domestic servants on the other.

It is understood that immigrant officials and clerks of firms adverted to in (b) Paragraph 2, Section II, and Paragraph 2, Section III, of this Memorandum, would be included in the numerical limit of 100 set for agricultural labourers and domestic servants. The understanding on this point as well as the equal distribution of 200 between wives and children and agricultural labourers and domestic servants, however, shall not be mentioned in the proposed communication referred to in Paragraph 2, Section I, of this Memorandum.

The Japanese Government is confident that an agreement on the basis suggested in this Memorandum would meet fully the desires of the Canadian Government.

832.

*Le sous-secrétaire d'État aux Affaires extérieures  
au consul général du Japon*

*Under-Secretary of State for External Affairs to  
Japanese Consul General*

Ottawa, May 22, 1928

Sir,

I have the honour to acknowledge your letter of May 14th, presenting a memorandum containing the views of the Japanese Government in regard to further restrictions on Japanese emigration to Canada.

I am directed to say that the views of the Japanese Government have been considered with care by the Government of Canada. The Government is pleased to note that agreement upon many points has been provisionally attained, but regrets that the Government of Japan has not found it possible to agree to the Canadian proposals as a whole contained in my letter of April 5th.



It will be recalled that in the latter communication it was stated that the Canadian Government did not consider that any hardship would be involved in setting a time limit to the privilege of future immigrants of bringing in their wives and children, as intending immigrants would hereafter be aware of the restriction and would presumably not emigrate to Canada unless prepared to accept it. It was added that the Canadian Government would, however, be prepared to accept a numerical limit of 150, covering wives and children as well as immigrants of the previously specified classes, instead of a time limit.

The Government of Japan in reply suggests that a limit of 200 be set, divided equally between wives and children on one side and agricultural labourers and domestic servants on the other, as contemplated in a proposal of the Canadian Government in 1925, and that no time limit be set to the privilege of Japanese emigrants now or hereafter resident in Canada of bringing in wives and children.

In considering this proposal the Canadian Government has had in mind the fact that in the three years which have elapsed since 1925, the problem has become more serious and public opinion in Canada is not prepared today to support a solution which might have been accepted in 1925 had it then met with the assent of the Government of Japan. As an indication of the trend of public opinion, it may be stated that since our last communication the Government of Canada has received a Minute of the Executive Council of British Columbia transmitting a vigorously expressed resolution adopted unanimously by all parties in the Legislature of British Columbia in April, requesting not merely more effective restriction but a measure of repatriation and revision of the Treaty of 1911.

The Canadian Government shares the desire of the Government of Japan to secure a speedy and mutually acceptable settlement of this question, which has now been under discussion for three years. While the Government still believes that both the limitation of numbers to 150 and the limitation of the privilege of bringing in wives and children to emigrants now resident in Canada should be included in any agreement, it has definitely reached the conclusion that it would be impossible to secure acceptance of any settlement by agreement which would not include one or other of these provisions namely, either (1) an understanding that the number of emigrants to whom passports would be issued, including agricultural labourers and domestic servants, with such officials or clerks of international houses as may be classified as immigrants, and including also wives and children of Japanese emigrants now or hereafter resident in Canada, should not exceed 150 a year, the proportion of females not exceeding one-half, or 2) a provision that the figure should be set at 200, of whom not more than half would be wives and children of Japanese emigrants now resident in Canada, and the remainder agricultural labourers and domestic servants and officials and clerks as previously defined, it being understood that the proportion of females in the latter group would not exceed the average for the past five years.

On acceptance of either of these alternative proposals by the Government of Japan, the Canadian Government would be prepared to accept definitely all other points in the proposed arrangement summarized in the Japanese memorandum of May 14th.

As you are aware, the session of parliament will terminate in a few days, and the Prime Minister will require to make a statement before it ends.

I have etc.

O. D. SKELTON

833.

*Le consul général du Japon au Premier ministre*  
*Japanese Consul General to Prime Minister*

Ottawa, May 28, 1928

Sir,

I have the honour to enclose herewith a Memorandum which Baron Tanaka, Minister for Foreign Affairs, has directed me to present to you in regard to the further restriction of Japanese emigration to Canada.

I have etc.

S. TOMII

[PIÈCE-JOINTE/ENCLOSURE]

*Mémoire*

*Memorandum*

[Ottawa, May 28, 1928]

I. With reference to the communication of the Canadian Government dated May 22nd regarding further restrictions of Japanese emigration to Canada, the Japanese Government confirms that the Governments of Canada and Japan have reached an understanding on the points enumerated in Section I and II of the Memorandum presented by the Consul-General of Japan at Ottawa to the Under-Secretary of State for External Affairs on May 14, 1928.

II. The Japanese Government takes note that, as the result of the conversation between the Prime Minister of Canada and the Consul-General of Japan at Ottawa on May 25, 1928, the two Governments have reached a further understanding on the following points:

The total number of emigrants to whom the Japanese Government will issue passports, including agricultural labourers, domestic servants, officials or clerks of firms described in (b), Paragraph 2, Section II of the Memorandum quoted in the preceding paragraph and wives and children of Japanese emigrants legally

resident in Canada, shall not, in any year, exceed one hundred and fifty (150). It may be added that, officials or clerks of firms described in Paragraph 2, Section III of the Memorandum mentioned above, will be included in this number.

III. The Japanese Government is happy to note that its proposals in regard to the officials or clerks of firms, stated in Paragraph 1 and 2, Section III of the Memorandum referred to in the opening paragraph of this Memorandum, have been accepted by the Canadian Government.

834.

*Le consul général du Japon au Premier ministre*  
*Japanese Consul General to Prime Minister*

[Ottawa, May 29, 1928]

Sir,

I have the honour to present to you, under instructions from Baron Tanaka, Minister for Foreign Affairs, a Memorandum on the subject of further restrictions of Japanese emigration to Canada.

I have etc.

S. TOMII

[PIÈCE-JOINTE/ENCLOSURE]

*Mémoire*

*Memorandum*

[Ottawa, May 29, 1928]

I. With reference to the Memorandum on the subject of further restrictions of Japanese emigration to Canada which was presented by the Consul-General of Japan at Ottawa to the Prime Minister of Canada on May 28, 1928, the Japanese Government states that, while it is not free to agree to specify a definite proportion of females within the maximum number of the Japanese emigrants yearly admissible into Canada, it is most willing to give respectful consideration to the purport of the Canadian proposal to limit the number of females within one half of 150. The Japanese Government desires to reiterate that it has not the least intention of creating any circumstances embarrassing to the Canadian Government by granting passports to females in a very large proportion.

II. In order to clarify the statement mentioned above, it is to be explained that, within this numerical limit of 150, the number of females may not reach 75 in one year, while it may exceed 75 in another, but that in no case will it considerably exceed 75. It is understood that the statement of the Japanese Government on this point is to be regarded as strictly confidential by the two Governments.

835.

*Le sous-secrétaire d'État aux Affaires extérieures  
au consul général du Japon*

*Under-Secretary of State for External Affairs to  
Japanese Consul General*

Ottawa, May 29, 1928

Sir,

I am instructed by the Prime Minister to acknowledge your letter of May 28th, enclosing a memorandum in regard to further restriction of Japanese emigration to Canada, and to confirm the statements contained in the memorandum enclosed as to the understanding which has been reached on the points enumerated between the Governments of Japan and Canada.

It is the understanding of the Canadian Government that the new procedure to be adopted by the Governments of Japan and Canada will go into force on September 1st.

I have etc.

O. D. SKELTON

836.

*Le sous-secrétaire d'État aux Affaires extérieures  
au consul général du Japon*

*Under-Secretary of State for External Affairs to  
Japanese Consul General*

Ottawa, May 31, 1928

Sir,

I have the honour, by instruction of the Secretary of State for External Affairs, to enclose a memorandum referring to the proposals contained in my letter to you of April 5th regarding immigration restrictions.

I have etc.

O. D. SKELTON

[PIÈCE-JOINTE/ENCLOSURE]

*Mémoire*

*Memorandum*

Ottawa, May 29, 1928

In view of the statement contained in the memorandum presented by the Consul-General of Japan on May 29th, indicating that the Government of

Japan will bear in mind the wishes of the Canadian Government as to the proportion of females in the total number of emigrants to whom the Japanese would grant passports hereafter, the Canadian Government withdraws the request made in the memorandum of April 5th for an explicit undertaking that the proportion of females would not exceed one-half.

837.

*Le sous-secrétaire d'État aux Affaires extérieures  
au chargé d'affaires du Japon*

*Under-Secretary of State for External Affairs  
to Japanese Chargé d'Affaires*

Ottawa, April 20, 1929

Sir,

On April 8th, 1929, Mr. Shuh Tomii, the Chargé d'Affaires of the Japanese Legation at Ottawa, called at this Department and stated that he had been instructed by his Government to enquire whether the Canadian Government would be prepared to enter into an agreement for the reciprocal exemption of Canadian and Japanese shipping from income and profit taxation. He stated that the Japanese Government would suggest that, if possible, the exemption should be made to apply as from May 12, 1928, the date on which the revised Japanese law No. 6 went into force. Before that date (apparently under the law of 1924) a question had arisen as to the applicability of Japanese taxation to Canadian vessels. Some decisions or assessments had been given and in some cases decisions had not been given. In the latter, he stated, the Japanese Government would be prepared to waive the collection of taxes.

In reply I have the honour to state that the Canadian Government is willing to facilitate the conclusion of an agreement with the Government of Japan for reciprocal exemption from income tax of income arising in their respective countries from the operation therein of ships owned or controlled by and used in the business of persons or corporations resident in the country of the other. Accordingly, I have the honour to submit for your consideration the following draft Agreement<sup>1</sup> . . .

You will note from paragraph 4 of the suggested Agreement that it is proposed to bring the Agreement into effect from the year 1928. This will cover the suggestion made by the Japanese Government that the exemption should be made to apply as from the 12th of May, 1928. In this connection it might be pointed out that the Canadian Government has never in fact collected an income tax from the Japanese shipping companies since the inception of the Act. As some decisions or assessments have apparently

<sup>1</sup> Le projet était essentiellement le même que celui reproduit sous le N° 753.

<sup>1</sup>The draft text was essentially the same as that in Document 753.



been made by the Japanese Government against Canadian ships, I wish to take this opportunity of pointing out this fact, in order that, if possible, any Japanese assessments at present not concluded might be cancelled.

If this draft Agreement meets with the approval of your Government, I have the honour to advise that the Canadian Government will be prepared to conclude a definitive Agreement on this basis by an Exchange of Notes.

Mr. Tomii wished to enquire whether in addition to the Canadian income tax there was any business profits tax or similar tax applicable to foreign vessels, and also to be informed as to the date when profits of foreign ships were made subject to Canadian income tax.

In reply to this enquiry I have to advise that there is now no business profits tax exacted by the Dominion, that tax having been discontinued by Parliament since 1920. The provision for exemption of foreign shipping was originally passed by Parliament in 1926, being section 10 of chapter 10 of the Statutes of 16-17 Geo. V. By section 12 of the said chapter 10, the exemption afforded to shipping was made retroactive to the year 1925 and fiscal periods ending therein.

Mr. Tomii stated that Japanese vessels had been notified through the Harbour Commissioner in Montreal and in Vancouver that it would be necessary for them to file a statement of profits and pay an instalment of consequent income tax before April 30th of this year. In view of the possibility of an Agreement being made, he enquired whether such payment could be postponed until a decision had been reached.

In this connection I may say that the Honourable the Minister of National Revenue has been pleased to extend the time for filing income tax returns by Japanese ship owners by a further 60 days. Thus the returns of information on Form T.4 will be due on or before the 31st of May, 1929, and the returns of income on Form T.2 will be due on or before the 30th of June, 1929.

I have etc.

O. D. SKELTON

838.

*Le sous-secrétaire d'État aux Affaires extérieures au chargé  
d'affaires du Japon*

*Under-Secretary of State for External Affairs to  
Japanese Chargé d'Affaires*

Ottawa, June 27, 1929

Sir,

I have the honour to acknowledge the receipt of your despatch No. 4 of May 23rd, 1929, enclosing draft text of notes to be exchanged at Ottawa, relative to reciprocal exemption of shipping profits from income tax; also your letter of June 19th, enclosing corrected copies of the draft notes referred to. It is noted, particularly, that the Japanese Government propose

to exclude from the stipulations of the proposed agreement the operation of a ship or ships having the nationality of a third country, by persons or corporations having their domicile in the other contracting party.

In reply I desire to point out that many Canadian Shipping Companies have their vessels registered in the United Kingdom of Great Britain and Northern Ireland, inasmuch as shipping laws in this country are in many respects in conformity with or reciprocal to the shipping laws of the United Kingdom. The Canadian Government understands, therefore, that the proposal of the Japanese Government to exclude from the operation of the proposed income tax exemption agreement ships not registered in Canada, would not include such Canadian-owned vessels registered in the United Kingdom, but would exclude Canadian-owned vessels registered in any other part of the world than the United Kingdom and Canada, and that the text of the draft notes may be amended accordingly.

If the alteration proposed by this Government meets with the approval of the Government of Japan, I have the honour to inform you that the Canadian Government is prepared to effect an exchange of notes at Ottawa in the terms of the draft notes submitted by you on behalf of your Government at any time which meets with your convenience.

I have etc.

O. D. SKELTON

839.

*Le chargé d'affaires du Japon au sous-secrétaire d'État  
aux Affaires extérieures*

*Japanese Chargé d'Affaires to Under-Secretary of State  
for External Affairs*

Ottawa, August 8, 1929

Sir,

In continuation of my note No. 8, dated June 29, 1929, I have the honour to acquaint you, under instructions from my Government, that the Japanese Government, after giving the most careful consideration to your proposed alteration in our Draft Notes, which was contained in your Note No. 7, dated June 27, 1929, have finally come to the following decision.

To meet the wishes of the Canadian Government in the matter of the proposed alteration, while keeping in accord with the stipulation of our Law No. 6, 1924, the Japanese Government see no other way but to arrange to include in the stipulation of the proposed agreement the operation of a ship or ships registered in a third country who shall have an Agreement of reciprocal exemption with one contracting party, by an individual or a corporate body who is resident in the other contracting party.

In proposing to your Government the above-mentioned amendment to be made to the original form of our Draft Notes, you will see that it will fully cover the case of the proposed alteration recently made by your Government in your note above referred to.

Accordingly, I have the pleasure of enclosing herewith two copies of the full text of the amended Draft Notes<sup>1</sup> for your consideration and beg to inform you that should these amended Draft Notes meet with the approval of your Government, I am to say that I am now authorized by my Government to proceed to effect an exchange of Notes, which should be under the same date, at any time at your convenience.<sup>2</sup>

I avail myself etc.

YOSHIO TWATE

840.

*Le secrétaire d'État aux Affaires extérieures au ministre au Japon*  
*Secretary of State for External Affairs to Minister in Japan*

DESPATCH 29

Ottawa, September 27, 1929

CONFIDENTIAL

Sir,

Under the arrangement, concluded in 1928, for a further restriction of Japanese immigration into Canada, it was agreed that, following the establishment of a Canadian Legation in Japan, the stipulations of the agreement would enter into full effect, and, particularly, that provision would be made to accord the visa of the Legation to passports issued by the Japanese Government in the case of Japanese emigration to Canada under the agreement. . . .

Several months having now elapsed since our Legation was established in Tokyo, it is considered desirable that you call the attention of the Japanese Government to the provisions of our arrangement of 1928, by which, in the case of immigration from Japan, as from other countries, it was agreed that the Immigration Act and Regulations, including the provisions for viséing of passports and the pre-investigation of applications would be administered by Canadian officials, and that applications for the entry of Japanese immigrants, including agricultural labourers, domestic servants, wives and children of Japanese immigrants resident in Canada be accompanied by certificates from a Japanese Consul in Canada when presented to the Canadian authorities.

<sup>1</sup> Non reproduit.

<sup>2</sup> On a procédé à l'échange de notes le 21 septembre 1929.

<sup>1</sup> Not printed.

<sup>2</sup> The exchange of notes was made on September 21, 1929.

In accordance with these provisions, it is desired that you inform the Japanese Government that it has been arranged with the Canadian Immigration authorities that on and after December 1st, 1929, applications for the entry into Canada of persons of Japanese race, except officials or clerks, who desire to enter Canada under the terms of the agreement, will be submitted, in duplicate, to the Immigration Officer-in-Charge at the ports of Vancouver and Victoria, in so far as applications arising in the Province of British Columbia are concerned, and to the Commissioner of Immigration, Ottawa, in so far as applications arising in the other Provinces of Canada are concerned, on Forms 'I' and 'C' 198, of the Department of Immigration and Colonization, copies<sup>1</sup> of which are enclosed herewith, and that the said forms, before being accepted by the Canadian Immigration Officers, are required to bear the endorsement of a Japanese Consular Officer in Canada.

The applications in question will be investigated by officers of the Immigration Office by which they are received, and, if found to be in order, a letter, Form 'A' or Form 'B', as the case may be, copies<sup>1</sup> of which are also enclosed, will be issued by the Division Commissioner of Immigration at Vancouver to the Japanese Consulate, whose endorsement appears on the application. A copy of the letter, with a duplicate copy of the application, will then be transmitted direct to our Legation in Japan. It may be added that the Division Commissioner of Immigration at Vancouver will not limit the number of letters issued to applicants for the admission of wives and children, agricultural labourers or domestic servants, as the Japanese Government will finally decide which cases shall receive priority in securing Japanese passports.

Applications from Japanese companies, with head-offices in Japan, for the admission of officials or clerks will, from the same date, be addressed to the Canadian Legation. The application should state the capital investment, nature and value of stock, gross annual turnover, and the extent to which the company engages in international trade, requiring the assistance of Japanese officials or clerks. Care should also be taken to state whether the application is for admission as an immigrant or entry as a non-immigrant under permit. Copies of the application will be submitted to the Department of External Affairs at Ottawa, in duplicate, for transmission to the Department of Immigration and Colonization. Applications from Japanese companies, with head-offices in British Columbia, will be submitted in letter form to the Division Commissioner of Immigration, Vancouver, or to the Immigration Agent, Victoria, and Japanese Companies, with head-offices in other provinces of Canada, will submit applications to the Commissioner of Immigration, Ottawa. In all approved cases a letter, Form 'C', copy<sup>1</sup> of which is enclosed herewith, will be issued by the Department of Immigration and Colonization, and a copy transmitted to the Canadian Legation in Japan. Applications from such officials or clerks, entered as non-immigrants under permit, for admission as non-immigrants under permit of their wives, and children under 18

<sup>1</sup> Non reproduites.

<sup>1</sup> Not printed.



years of age, will bear the full name, age, relationship to applicant, and address in Japan of each member of the family to be brought forward. It is contemplated that, in practice, such applications will not be made until the official or clerk has taken up his duties in Canada, and that, therefore, they will be made direct to Canadian Immigration Officials in Canada.

It is further desired that you inform the Japanese Government that, following the practice in effect for some years with respect to European immigration to the Dominion, on and after April 1st, 1930, Japanese immigrants and non-immigrants under permit, as a necessary condition for permission to land in Canada, will be required to be in possession of a valid passport issued in, and by the Government of, the Japanese Empire, and bearing the visa of the Canadian Legation in Japan.

On and after April 1st, 1930, the visa of the Legation will, therefore, be affixed to all passports issued by the Government of Japan for Japanese immigrants to Canada to the number of 150 for the period April 1st to March 31st; provided, however, that no visa shall be issued for any such passport unless a letter, Form 'A', Form 'B', or Form 'C' in so far as it concerns *immigrant* officials or clerks only, as the case may be, has been received from the Department of Immigration and Colonization of Canada, approving the application of the person mentioned in the passport. Care should be taken that the number of visas accorded to passports of females under this group does not greatly exceed 75 per annum.

In addition it is contemplated that the visa of the Legation will be accorded to passports of officials or clerks entering Canada as non-immigrants under permit, and their wives, and children under 18 years of age.

The Legation will, also, grant a visa to immigrant wives, and children under 18 years of age, who are British subjects under the provisions of the Naturalization Act, on satisfactorily establishing that the applicants are British subjects and the wives and children under eighteen years of age of persons of Japanese race and Canadian citizenship (either by birth or naturalization), and who are legally resident in Canada. Persons in this class, being British subjects, are not subject to the numerical restrictions imposed on Japanese subjects. Care must be taken, however, that applicants applying for admission in this class are British subjects as defined by the Naturalization Act. In this connection it may be noted that the wife of a British subject is deemed to be a British subject. A child born abroad whose father is a British subject by birth is also a British subject. A child born abroad whose father is a British subject by naturalization is also a British subject, providing the child was born subsequent to the naturalization of the father. Where the passport is issued by the Canadian Legation the visa requirement will, of course, be unnecessary.

The visa of the Legation in Tokyo will correspond generally to that accorded by the Department of External Affairs at Ottawa to passports of travellers passing through Canada. It is desired, however, to add a cypher



which will serve as a register of Japanese sailing for Canada. This cypher will indicate the class to which the immigrant, or non-immigrant under permit, belongs, as follows:

- F —indicating immigrant wives and children of Japanese citizenship,
- AL —indicating agricultural labourers,
- D —indicating domestics,
- IC —indicating immigrant clerks or officials,
- CP —indicating clerks or officials under permit,
- CFP—indicating wives and children of clerks or officials under permit,
- FBS—indicating immigrant wives and children under 18 who are British subjects under the provisions of the Naturalization Act.

It is contemplated that a fee of two dollars, payable in Canadian currency, will be charged for affixing the visa of the Legation. A supply of visas, with detailed instructions for accounting for such visas, will be forwarded to the Legation in advance of the date set for issuing them.

With respect to the question of the issue of a visa to travellers and business men by mail, it is, of course, to be preferred that the usual practice of personal application at the chancery of the Legation will be favoured. Visas may, however, be accorded by mail in special cases where insistence on personal application would entail hardship.

No visa is necessary with respect to Japanese legally resident in Canada who have returned to Japan for temporary purposes under an outward registration certificate issued by the Department of Immigration and Colonization.

I have etc.

[W. H. WALKER]  
for the Secretary of State  
for External Affairs

841.

*Le secrétaire aux Dominions au secrétaire d'État aux Affaires extérieures*  
*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM B. 17

London, January 25, 1930

CONFIDENTIAL. His Majesty's Representative at Tokyo was instructed in 1928 to enquire whether the Japanese Government would be prepared to instruct their Consular Officers in China to co-operate with His Majesty's Consular Officers in the matter relating to illicit drug traffic by exchange of information regarding seizure of drugs and proceedings and movement of persons known to be engaged in traffic with a view to their discovery and apprehension. Reply has now been received from the Japanese

Government welcoming suggestion, intimating that they have recently made with the United States Government reciprocal arrangement of this character which however extends to Diplomatic and Consular Officers of both parties wherever situated, and proposing conclusion of similar general arrangement which would apply not only to Consular Officers in China but to all British and Japanese Diplomatic and Consular Officers.

To be fully effective this would involve exchange of information,

(i) Between British and Japanese Diplomatic and Consular Officers abroad;

(ii) Between His Majesty's Diplomatic and Consular Officers in Japan and Japanese Government;

(iii) Between Japanese Diplomatic and Consular Officers in any part of the British Empire and the Government of that part of the Empire in which they are stationed.

No objection is seen to the Japanese proposal so far as His Majesty's Government in the United Kingdom are concerned, and we should be glad to learn as early as possible whether it would be acceptable also to His Majesty's Governments in the Dominions, in which event it is proposed that arrangements should be placed on formal record by an exchange of notes with the Japanese Government expressed in the name of all His Majesty's Governments. In concluding arrangement it would doubtless be desirable that Japanese Government should be given, with reference to (iii) above, particulars of the authorities with whom Japanese Diplomatic and Consular Officers should communicate and in the event of Japanese proposals being generally acceptable we should be glad to be informed what public Departments of His Majesty's Governments in the Dominions would wish to be designated as appropriate authority for exchange of information with Japanese officers concerned.

842.

*Le secrétaire aux Affaires extérieures au secrétaire aux Dominions*  
*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 17

Ottawa, February 3, 1930

Your telegram circular B. 17 of 25th January regarding Japanese proposal for exchange of information as to illicit drug traffic, Canadian Government see no objection to proposal and would be prepared to consider favourably conclusion with Japanese Government of an arrangement as contemplated. With reference to (iii) of your telegram, our view is that any information conveyed might go through ordinary diplomatic channels.

843.

*Le ministre au Japon au secrétaire d'État aux Affaires extérieures*  
*Minister in Japan to Secretary of State for External Affairs*

DESPATCH 14

Tokyo, February 5, 1930

Sir,

I have the honour to refer to your confidential Despatch No. 29, dated the 27th of September, 1929, and relating to the Agreement reached between the Government of Canada and the Government of Japan, on the subject of immigration into Canada.

A despatch has now been received from the Minister for Foreign Affairs of the Imperial Japanese Government in which attention is drawn to the fact that passports issued to Japanese subjects allow their holders a period of six months in which to leave the country. A copy of the said despatch is enclosed herewith.<sup>1</sup> This may mean, in practice, that certain immigrants who have been granted a passport in one fiscal year will postpone their departure from Canada—and, in consequence, postpone their request for a Legation visa—until a date early in the following fiscal year. This lag may, or may not, be constant. In any case the probability is that the Legation will be asked to issue more than 150 visas in one year, less than 150 in another. It will be noted that His Excellency the Foreign Minister requests that the Legation recognize the necessity for this detail of procedure, and points out that a refusal to do so would in his opinion be contrary to the Agreement heretofore mentioned.

May I illustrate the situation which may arise by the following hypothetical case.

In the fiscal year 1930-31 the Japanese Government will issue 150 passports to intending immigrants to Canada. Of these 100 will apply for a visa and leave for Canada in that year, but 50 will postpone their departure until early in the fiscal year 1931-1932. Hence in the fiscal year 1930-31 the Legation will issue only 100 visas.

In the fiscal year 1931-1932 the Japanese Government will again issue 150 passports to such immigrants. Of these 125 will apply for a visa and leave for Canada in that year, but 25 will postpone their departure until early in the fiscal year 1932-1933. Hence in the fiscal year 1931-1932 the Legation will issue 50 visas to passport holders from the year 1930-1931 (see above) and 125 visas to passport holders for the year 1931-1932, or a total of 175 visas issued during the latter year.

In reply to His Excellency I informed him that I fully appreciate the justice of the request that he has made and that I am recommending to my Government that this adjustment be made in the method of procedure to be adopted. A copy of my note is enclosed herewith.<sup>1</sup> It will be noted that I particularly insist that the period of validity of such passports (six months) shall not be extended.

<sup>1</sup> Non reproduite.

<sup>1</sup> Not printed.

In recommending that the Canadian Government adopt the procedure here outlined, it will be noted that in no case will more than 150 passports be issued in one year, and that the tendency of the arrangement will be to retard rather than to accelerate the entrance of Japanese immigrants into Canada. I most strongly urge that this course be adopted.

It is not my intention nor my desire to advocate the carrying over from one year to the next, any unused places on the annual quota of 150. That is to say, if the Imperial Japanese Government issues only 100 immigrant passports in the fiscal year 1930-1931 they do not obtain the right to issue 200 such passports during the fiscal year 1931-1932. Only one hundred and fifty immigrant passports may be issued in each fiscal year.

In view of the brief time remaining before the beginning of the next fiscal year when the new procedure is to be placed in operation, I shall be greatly obliged if I may have a reply to this despatch by cable at your earliest convenience.

I have etc.

H. M. MARLER

844.

*Le secrétaire d'État aux Affaires extérieures au ministre au Japon*  
*Secretary of State for External Affairs to Minister in Japan*

DESPATCH 28

Ottawa, April 10, 1930

CONFIDENTIAL

Sir,

I have the honour to refer to your despatch No. 14 of the 5th February, 1930, with regard to the viseing of passports for Japanese emigrants to Canada, and to say that the matter has been the subject of consideration by the various Canadian authorities concerned.

2. As is indicated in your despatch and in the note from the Minister of Foreign Affairs which you enclosed, under the present arrangement it is the number of passports rather than the number of visas issued in a given year which it is understood will not exceed the maximum of one hundred and fifty. In view further of the fact that Japanese passports at present have a validity of six months, it is quite conceivable that in the course of a single year more than one hundred and fifty passports should be presented by applicants entitled to the grant of a visa. We agree that in this case it would be within the terms of the present understanding to issue more than one hundred and fifty visas within a given year. At the same time it is essential to point out that the figures which will receive public attention in Canada will not be the number of passports or the number of visas issued, but the

number of immigrants arriving, and it is therefore most desirable that the issue of passports should, as far as possible, be so regulated as to ensure that the number of arrivals will not exceed one hundred and fifty in a given year.

3. It is also desired to point out, for your own information, that the number of one hundred and fifty is a maximum, and that it is assumed that the investigations conducted by the Department of Immigration in Canada hereafter will result in the rejection of a considerable number of applications. If this proves to be so and the number of visas is consequently reduced considerably below one hundred and fifty, the variation between the number of passports or visas and of arrivals will not be of importance. It is only when passports and visas are issued to the maximum that difficulty arises.

4. I enclose a copy of a telegram sent to you today on this subject.<sup>1</sup>

I have etc.

O. D. SKELTON  
for the Secretary of State  
for External Affairs

845.

*Le secrétaire d'État aux Affaires extérieures au ministre du Japon*  
*Secretary of State for External Affairs to Japanese Minister*

No. 9

Ottawa, July 26, 1930

Sir,

I have the honour to refer to our interview of March 15th in which we discussed, informally, the question of the procedure regulating the entry to Canada of Canadian citizens of Japanese race now in Japan and wishing to return to Canada, and to inform you that the Department of Immigration and Colonization, to which the matter was referred for consideration, states that the production of documentary evidence of birth or naturalization does not necessarily result in the admission to Canada of persons claiming the status of Canadian citizens. In all cases, a decision as to admissibility can only be rendered at the port of entry after personal examination of the applicant. In the cases of Canadian citizens, they would require to satisfy the officer that they were Canadian born and had not become aliens. In the cases of persons naturalized under the law of Canada, they would require to satisfy the examining officer that they had become naturalized, and had not subsequently become aliens or lost Canadian domicile. There would be no objection to persons who come within either class making inquiries at the nearest Canadian Legation—at Tokyo, for example, in the case of persons

<sup>1</sup> Non reproduit.

<sup>1</sup> Not printed.



who have gone from Canada to Japan—but the Legation Officials would require to inform them that a definite decision could only be given at a Canadian port of entry.

Accept etc.

O. D. SKELTON  
for the Secretary of State  
for External Affairs

### LITUANIE/LITHUANIA

846.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

DESPATCH 315

Ottawa, August 8, 1928

Sir,

With reference to your despatch dated April 25th, 1927, regarding the Extradition Treaty with Lithuania, I have the honour to inform you that the Canadian Government, by an Order in Council of August 1st, 1928, has decided to accede under article 17 of the above mentioned treaty.

I am therefore to request that His Majesty's representative at Kaunas (Kovno), be requested on behalf of the Dominion of Canada, to give notice of such accession to the Government of the Republic of Lithuania.

I have etc.

O. D. SKELTON  
for the Secretary of State  
for External Affairs

### MEXIQUE/MEXICO

847.

*Le secrétaire aux Dominions au Gouverneur général  
Dominions Secretary to Governor General*

TELEGRAM

London, November 25, 1926

IMPORTANT. SECRET. Following telegram received from His Majesty's Representative at Mexico City. Begins. Mexican Government would be most grateful if Canadian authorities could take special care to prevent the smug-

gling of American arms and ammunitions into Mexico. They tell me that they have documentary proof of considerable traffic, particularly in rifles, from the United States via Vancouver and thence by vessels to the West Coast. They have, of course, made frequent representations to the United States Government and proved (?) actual past transactions (?through) Canada, which I can telegraph if required. Please telegraph any action taken by Canadian authorities for the information of the Mexican Government. Telegram ends. His Majesty's representative further states that U.S. newspaper reports indicate possibility of crisis between the U.S. and Mexico developing out of the alleged Mexican support of the Nicaraguan revolutionaries and suggests that the above request may indicate attempt on part of the Mexican Government to obtain material for use in a controversy with the United States Government. Secretary of State for Foreign Affairs would be glad to learn by telegraph whether your Ministers have any information as to alleged traffic or any observations to offer on the subject.

848.

*Le Gouverneur général au secrétaire aux Dominions*  
*Governor General to Dominions Secretary*

TELEGRAM

Ottawa, December 2, 1926

SECRET. Your telegram November 25th. It has been reported to the Customs Department by the Collector of Customs and Excise at Vancouver that he is unable to find either record or evidence of rifles, arms or ammunition being shipped to Mexico through that port.

849.

*Le secrétaire aux Dominions au secrétaire d'État*  
*aux Affaires extérieures*  
*Dominions Secretary to Secretary of State for External Affairs*

PARAPHRASE OF TELEGRAM 10

London, January 24, 1928

PRIORITY. IMPORTANT. SECRET. By Secretary of State for Foreign Affairs has been received telegram to following effect from His Majesty's Minister at Mexico City: Reports in the Press have appeared recently regarding alleged intention of a catholic member of the Canadian Parliament to demand at Opening of Session recall of Mexican Consul General at Toronto in view of certain publications made by him to meet recent attacks in Canada on anti-catholic policy of Mexican Government, and of Thornton's visit. Acting Minister for Foreign Affairs informed His Majesty's Minister on January 17th that in view of above Prime Minister of Canada has summoned

Consul General to Ottawa and suggested to him that latter should propose his own recall to his Government. It was observed by Acting Minister for Foreign Affairs that trouble in connection with this subject had been successfully avoided even with purely catholic countries and intimated in clearest terms that while appreciating possible political considerations in Canada, Consul General could in no circumstances be recalled by Mexican Government. Facts of the case would be published if Canadian Government insisted, and Mexican Government might have to take certain reprisals possibly of a commercial nature, which he seemed to think would also necessarily affect Great Britain.

It was made clear by His Majesty's Minister that matter was one for decision by His Majesty's Government in Canada, but undertook to communicate to Canadian Government unfortunate impression which from insistent demand would result. It was stated by Acting Minister for Foreign Affairs that he was telegraphing on the subject to Mexican Minister in London, but had sent no instructions to Consul General in Canada and until reply shall be received by His Majesty's Minister undertook to take no further action. Attention of His Majesty's Government in Great Britain has now been drawn officially to matter by Mexican Minister.

Foreign Secretary would be glad to learn whether His Majesty's Government in Canada desire any communication to be made, and if so, in what terms to Mexican Government.

850.

*Le secrétaire aux Dominions au secrétaire d'État aux  
Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

PARAPHRASE OF TELEGRAM

London, January 24, 1928

PRIORITY. IMPORTANT. PERSONAL AND SECRET. The following from Secretary of State for Foreign Affairs. Begins. Today an official telegram is being sent to you describing conversation between His Majesty's Minister at Mexico City and Mexican Minister for Foreign Affairs, regarding relations between Mexico and Canada. Of your difficulties in this connection I was sorry to hear, especially at the present time when general relations with Mexico are friendly and when it looked as though Sir Henry Thornton's recent mission might result in adoption of a scheme of reorganization of Mexican railways, in which Great Britain has such large interests as well as Canada. Of present discussion I hope that there will be satisfactory outcome. Between 1918 and 1925 our experience here showed that if once normal relations with Mexico have been suspended it is an exceedingly difficult matter for their resumption to be effected. Ends.

851.

*Le secrétaire d'État aux Affaires extérieures au  
secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

PARAPHRASE OF TELEGRAM 16

Ottawa, January 25, 1928

PRIORITY. IMPORTANT. SECRET. Mexican Consul General. Your telegram 24th January. After visit of Sir Henry Thornton to Mexico to report on railway difficulties, attack for authorizing visit was made on Canadian Government, particularly in an open letter from Bishop Fallon protesting against lending services of a public official to aid "most infamous Government in the world." In statement to press Prime Minister indicated Government had not been responsible for invitation but had put no obstacle in way, and that so far as there was any actuating motive in attitude of Canadian Government in relations with Mexico it was between countries simply that of one of goodwill. Barron unfortunately, the Mexican Consul-General in Toronto, considered it necessary to issue to Press statement as "representative of Mexican nation" in which to reflect upon the Roman Catholic Church itself he went beyond the situation in Mexico. It was stated by him "the Roman Catholic Church of today is the same which established the inquisition in Mexico at the time of the Spanish conquest to torture and murder Protestants and any others who did not follow their system of religion," and "the Roman Catholic Church has been for many centuries a handicap for the development and progress of the Latin-American countries, on account of the teaching of obscurantism to keep the masses in slavery to be able the better to exploit them." Vigorous and widespread protests were stirred up by this statement, including a notice of resolution by a Member of Parliament protesting against the Consul's insults, demanding his recall and cessation of all further intercourse with Mexico, and condemning the mission of Thornton. From extreme Protestants counter protests have followed and the country is faced with a revival in acute form of religious and racial controversies from which of late years it has been fortunately free. Accordingly the Prime Minister sent for Barron and informed him that the Canadian Government had no intention of intervening in any way in Mexican issues nor of breaking off such relations as existed but that by published interview in question public peace had been disturbed and that the usefulness of the Consul had been impaired as a consequence. Of the Canadian population it is estimated that forty per cent is of the Roman Catholic faith. Prime Minister therefore suggested that in order to avoid further difficulty and spread of controversy when Parliament opened it would be advisable for the Consul to advise his Government exactly of the situation which had arisen and to seek another

post by transfer. The force of the Prime Minister's representations appeared to be recognized by the Consul and he stated that he would communicate with his Government but has made no further communication this far.

If the Mexican Government could be informed of these facts we should be glad. We desire to make clear that Canadian Government has made no reference to Mexican domestic situation as seems to be assumed by the statement of the Acting Minister for Foreign Affairs that trouble in connection with this subject has even with purely catholic countries been successfully avoided. Question at issue is simply the action of the Consul in plunging into a public controversy and making statements which have permanently impaired his usefulness in Canada and have offended a large part of the Canadian people. Though it will not avert criticism of Canadian Government the withdrawal of statement by Consul or transfer to another post would make it possible to avert international controversy.

852.

*Le secrétaire d'État aux Affaires extérieures au secrétaire  
aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

PARAPHRASE OF TELEGRAM

Ottawa, January 25, 1928

PRIORITY. IMPORTANT. SECRET AND PERSONAL. The following is for the Secretary of State for Foreign Affairs from Prime Minister. Begins. In reply to telegram regarding Mexican difficulty an official telegram is being sent today. The force of the considerations you mention is recognized by us and we should regret if Mexican authorities adopted policy of reprisals against the commercial interests of Canada or Britain. Of course for such an attitude there is no warrant whatever. Goodwill has been shown throughout by the Canadian Government. The conduct of the Consul-General, however, cannot possibly be ignored by us. Any effort which will result in Mexican authorities accepting compromise action proposed and thus averting possibility of serious friction will be appreciated by us. Ends.

853.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM 16

London, February 4, 1928

SECRET. His Majesty's Minister at Mexico City was informed of statement made by Secretary of State for Foreign Affairs to Mexican Minister



in London and was instructed to speak to Acting Minister for Foreign Affairs in similar sense. Following reply has now been received. Begins. I failed to make any impression on Acting Minister for Foreign Affairs. He listened quietly and courteously to my Spanish rendering of your representations to Mexican Minister and to my arguments but insisted over and over again that there was nothing his Government could or would do. Mexican case, he said, was absolutely clear, they had all the right on their side. By no insistence could I even get him to make any suggestion for alleviating the situation. I pointed out that entirely apart from religious question it would not be unnatural for a Government privately to make a suggestion with regard to appointment to another post of a Consul or Diplomatic Representative who by his public utterances had raised controversial question and thus embarrassed the Government to which he was accredited. I used every other argument I could think of, including friendly intentions of Canadian banks, our excellent relations, my constant endeavours to represent Mexican side of any question in fairest light to you, and internal difficulties arising from religious questions in Canada, but he would not budge. Mexican Government, he said, had done nothing wrong but wrong had been done to them. It was right of any representative to defend his country against unwarrantable accusations. I pointed out unnecessary strength of Consul General's language, but all to no effect. Nothing would make him depart from his decision which he asked me to communicate to you, and that should matter not be satisfactorily arranged he would immediately publish full details of case and demand recall of Canadian Trade Commissioner. When I pressed him as to what exactly Mexican Government wanted, he stated simply that question of the removal of the Consul-General in any form should be dropped. It was of course immaterial to them what interpellation was moved in Canadian Parliament which was a purely Canadian internal affair. If Canada had religious difficulties certainly Mexico had more. In draft of publication which he would order to be prepared soon, he would call attention to difference between Canadian and Mexican methods. Mexican Government had against their own law made special arrangements at our request to permit conduct of Protestant services in their country, while Canadian Government insisted on recall of Consul-General who had merely defended his own Government against attack by Catholics. This fact he would also include in publication.

As things had got so far I begged him to suggest a sort of compromise. Would it not be possible for Consul-General, even if he could not withdraw his statement, to make some amendatory statement. No, he was completely obdurate. He insisted considerably on the fact that Mexican Consul-General's Exequatur was signed by The King. I asked what would the effect be on Sir H. Thornton's mission, he replied, that was a commercial and financial matter. He will of course take no action until he hears further through you. Ends.

Matter is being considered. Further communication will be sent as soon as possible.

854.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM 17

London, February 5, 1928

STATE. CONFIDENTIAL. My telegram 4th February, No. 16. Position with regard to Protestant service in Mexico is as follows: In 1926 Mexican Government passed Religious Law providing *inter alia* that all "ministers of religion must be Mexican". As a result of verbal representations by His Majesty's Government on behalf of the British cathedral in Mexico City, regulations were however issued later allowing foreign ministers of religion 6 years' grace to continue to celebrate providing that they undertook to train Mexican substitutes. In June 1927(?) His Majesty's Legation, in an exchange of notes, thanked the Mexican Government for modification of Law effected by these regulations and expressed the hope that it would eventually prove possible to remove "certain restrictive features of Law". We have no reason to fear publicity on this point.

In regard to the last paragraph of Mr. Ovey's message position is as follows:

Senor Barron's Exequatur being dated December 1925 would have been issued under old arrangement, that is, have been countersigned by Secretary of State here. Point was referred to in conversations of Secretary of State for Foreign Affairs and Mexican Minister 2nd February when Sir Austen Chamberlain made it, if the Exequatur were being issued now it would be countersigned by a Canadian Minister and not by himself.

In general, we fear that if no solution of the present difficulty can be reached not only will the breach of relations between Canada and Mexico be inevitable but results may well be complete severance of diplomatic relations which would likely (---?---) to cause more damage to our own interests than those of Mexico. In this connection please see last sentence of my telegram 24th January, No. 10.

855.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

PARAPHRASE OF TELEGRAM

London, February 5, 1928

STATE. SECRET AND PERSONAL. Following from Secretary of State for Foreign Affairs. Begins. My telegram 5th February, No. 17. In Mexico our own experience and our observations of that of others has convinced us that while uncompromising attitude only serves to stiffen the resistance of

the Government of Mexico, appearance of the concession often induces them to yield desired points. In the present case it has occurred to the Secretary of State for Foreign Affairs that the Mexican Government might be prepared to agree to the withdrawal of the Consul-General's letter if Bishop Fallon's letter were withdrawn at the same time, or certain statements in it. At the Holy See His Majesty's Minister was recently informed by the Cardinal's Secretary of State that all Roman Catholic Bishops had strict instructions to refrain from any interference in political questions, and it is possible, if this solution commends itself to the Canadian Government, that the Vatican might be prepared to take up the matter with the Bishop on these lines. To the Vatican any representations could be merely informal of course. [Ends.]

856.

*Le secrétaire d'État aux Affaires extérieures au secrétaire  
aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

PARAPHRASE OF TELEGRAM

Ottawa, February 8, 1928

PRIORITY. PERSONAL AND SECRET. Following for Secretary of State for Foreign Affairs from Secretary of State for External Affairs. Begins. With reference to your telegram of the 5th February, personal, I am much obliged by your suggestion as to way out of Mexican difficulty, but regret that a knowledge of the personal and other factors involved in the action of Bishop Fallon makes it quite impossible for such a solution to be arranged. As you previously suggested we still consider proposal for exchange of Consul through leave of absence would be a very reasonable basis of adjustment. Ends.

857.

*Le secrétaire d'État aux Affaires extérieures au secrétaire  
aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

PARAPHRASE OF TELEGRAM 26

Ottawa, February 8, 1928

STATE. SECRET. With reference to your telegram of February 4th, No. 16, Canadian Government desire to express appreciation of representations made to Mexican Government and regret to note that their force has not yet been realized by Mexican authorities.

As to what is in mind of Government of Canada the Acting Foreign Minister in Mexico has apparently obtained an erroneous impression. It is desired in the circumstances to have the exact situation restated from the point of view of the Canadian Government, as follows: At the time when

Government of Mexico asked for loan of services of President Thornton, Canadian National Railways, to aid in adjusting a situation of concern to the Mexican Government, this request was acceded to from a desire to further friendly relations in matters of trade and otherwise between Mexico and Canada and from point of view of good-will. Bishop Fallon, while Sir Henry Thornton was in Mexico, issued an open letter in which he violently attacked Canadian Government for permitting Thornton to go to Mexico and questioned Government's motive in so doing, imputing anti-Catholic motive in lending support to the Government of Mexico. The Prime Minister declined to reply to this open letter addressed to himself, but issued a statement to the press saying that the motive of the Canadian Government was solely one of good-will to another Government and was parallel to motive of United States Government in permitting Lindbergh to visit Mexico, mention of that event having appeared that morning in the press. The chances are that had matter been allowed to drop there little further public notice would have been taken of Thornton visit though possibly Government would have been subjected to attack in Parliament for permission being granted. A Motion, as a matter of fact, has been placed on the Order Paper by a private Member following Barron's communication to the press, in which the Government is criticized by one of its own followers and censure for allowing Sir Henry Thornton to go to Mexico directed against Administration, so that Government will be called upon to defend its action in Parliament. The Government is quite prepared to do this on the score of having taken perfectly proper course in meeting in a friendly manner the request of the Government of Mexico. Part II follows. End of Part I.

858.

*Le secrétaire d'État aux Affaires extérieures au secrétaire  
aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

PARAPHRASE OF TELEGRAM 27

Ottawa, February 8, 1928

STATE. SECRET. With reference to your telegram No. 17, February 5th, Mexican reference to restrictions imposed by Mexican Government on religious services by foreign Ministers of religion, which have since been suspended temporarily, appears irrelevant, as the Government of Canada, where of course there are no restrictions on nationality of ministers of any religion, has made no reference either to imposition of restrictions or to their modification by Mexican authorities.

It is our understanding, as to Exequatur, that since Imperial Conference of 1926 responsibility for advising His Majesty as to withdrawal of Exequatur of Consul in Canada whether issued before or since 1926 as well as for advice on issue of future Exequaturs falls upon His Majesty's Ministers in Canada. As it will be necessary for Prime Minister to refer to this point in case of debate in House, please advise whether this is not also under-



standing of His Majesty's Government in Great Britain. It is not considered by us that withdrawal of Exequatur of particular Consul concerned would give ground for breach of relations with Canada, much less severance of diplomatic relations with His Majesty's Government in Great Britain, but we trust that if latter possibility is anticipated explanation to Mexican authorities of sole responsibility of Canadian Ministers for advice as to Exequaturs to Consuls in Canada, will avert this.

859.

*Le secrétaire d'État aux Affaires extérieures au secrétaire  
aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

PARAPHRASE OF TELEGRAM 28

Ottawa, February 9, 1928

STATE. SECRET. With reference to my telegram No. 26 of February 8th Part II follows: Mexican Consul unfortunately intervened giving to the controversy new direction and fresh force. The Government's position in justifying meeting the wish of Mexican Government regarding loan of Thornton has been made more difficult by Consul beginning public controversy with Bishop Fallon. The statement of Barron unfortunately went entirely beyond situation in Mexico and contained at least two wholly independent sentences which were in the nature of a direct attack on the Catholic Church. Of Bishop Fallon's course while many Catholics were inclined to be critical, the direct attack on the Roman Catholic Church in Barron's communication has not only changed their feeling in that particular, but has caused many Protestants as well to feel that a statement thus offending sentiments of their Catholic fellow citizens was unjustifiable by an official professing to speak as the representative of a foreign Government in Canada.

The Prime Minister and his colleagues, though strongly urged almost immediately to demand recall of Mexican Consul, refrained from taking any steps, in the hope that in public controversy matter would not assume serious proportions. Part III follows. End of Part II.

860.

*Le secrétaire d'État aux Affaires extérieures au secrétaire  
aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

PARAPHRASE OF TELEGRAM 29

Ottawa, February 9, 1928

STATE. SECRET. Part III Begins. With reference to my telegram February 8th No. 26 and my telegram February 9th No. 28, when however it was apparent after some weeks' delay that discussion in press was likely to be carried into Parliament and that question would be not merely Thornton



visit but Consul's direct attack on Catholic Church, Prime Minister sent for Barron and pointed out to him wherein it was apparent to the Government that his usefulness as Consul of Mexico in Canada had been impaired and that in addition, his remaining in Canada was serving to create antagonism to Mexican Government which Canadian Government was most anxious to avoid, as well as arousing in the Dominion a very serious religious controversy. These representations the truth of which Barron appeared to the Prime Minister to acknowledge, he was asked to convey to his Government. The Prime Minister was left with the impression that he would not only do this in a manner which would help to convince his Government of the friendly purport and intent of the Canadian Government's action, but would help to render unnecessary any direct communication in the nature of a request for his recall by the Government of Canada with the Government of Mexico. Prime Minister was careful to state that he hoped nothing of the kind would have even to be considered by the Government, as he feared were the matter to come up in Parliament and a Resolution to that end carried by the House of Commons, might be the case. Canadian Government's whole effort has been to have this matter so dealt with as to impair in no particular the relations between Canada and Mexico and also to avoid further discussion of the incident in Parliament and in the press. If matter is presented to Mexican Government in this light, Prime Minister believes that Government of Mexico will not wish to have Canadian Government unduly embarrassed over Thornton visit, in consequence of an act on the part of one of its officials, and that the Mexican Government if it realized that the usefulness of the official had been seriously impaired would not be averse to having him return to Mexico immediately and arrangements made for a transfer to some other post. The appointment of a new Consul-General from Mexico to Canada would far from a desire to sever relations with Mexico, be welcomed. The Prime Minister feels that if some intention of the kind is not immediately signified by the Mexican Government that it will not be possible for the Government to avoid a Resolution being carried in Parliament at least expressing disapproval of his unwarranted attack or demanding the recall of Barron. The Government sooner or later would be obliged to advise His Majesty to withdraw his Exequatur as such action by Parliament would of course still further impair the Consul's usefulness in Canada. Ends.

861.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM [20]

London, February 9, 1928

IMPORTANT. SECRET. My telegram 4th February, No. 16. Following is text of note communicated by Mexican Minister in London to Secretary of State for Foreign Affairs. Begins.

On Thursday evening I had the pleasure to receive Your Excellency's memorandum as to the reported incident between the Prime Minister of Canada and our Consul-General at Toronto. As I promised Your Excellency at our interview of the same date, I immediately communicated by cable to my Government the essential points of that memorandum. In reply I have today received a full detailed report of origin of developments and features of incidents, which, as my Government informs me, has also been communicated to Mr. Ovey. From this report it appears that the Canadian press have on many occasions published opinions and comments of prominent Canadian Catholics on internal politics of Mexico, referring in highly offensive and disparaging terms to Government of my country and more especially to President Calles; that in fulfilment of his duties Senor Medina Barron, our Consul-General, corrected those gratuitously injurious opinions by statements published in *The Globe* of Toronto in its issue of 16th December last; that while it is true that the said correction was couched in energetic terms, particularly so far as concerns attitude of the Roman Catholic Church in Mexico and other countries of Latin America, the said consular officer was scrupulously careful not to interfere in domestic affairs of Canada, nor did he make reference to activities of Catholic Church in that Dominion. In view of foregoing my Government have learned with great surprise of the statement of Canadian Premier that the publication of interview with our Consul-General to whom reference has been made "had disturbed public of Canada." My Government are unable to find any basis for such a conclusion, and every person of calm mind will ask with my Government: "Do systematic and virulent attacks of Catholic press of Canada against my country in general and President Calles in particular constitute no factor in origin of this situation? Can vigorous language which permeates statements of our Consul-General even be compared with disparaging and offensive language held in regard to Government of Mexico by Bishop Fallon and other prominent Catholics? If the public peace of Canada has been disturbed and if a revival of ancient racial and religious controversy in the Dominion is apprehended, why should the origin of this situation be attributed to declaration of our Consul-General and not to the notoriously impassioned and prejudiced opinions published previously by the dignitaries of the Catholic clergy and even by Canadian public officials against the Mexican Government?" These considerations alone fully disclose absence of justification with which Prime Minister of Canada has judged action of Consul-General Medina Barron in controversy with which we are now dealing. In these circumstances the demand for withdrawal made by the Premier amounted to a biased and impassioned act against Government of my country. First part ends.

862.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM

London, February 10, 1928

PRIORITY. IMPORTANT. SECRET. Following is second part of my telegram 9th February which should have been numbered 20. Begins. In view of foregoing, Government of Mexico, while deeply grateful for friendly nature of suggestion contained in final portion of Your Excellency's memorandum, and for sincere desire of His Majesty's Government in Great Britain that this incident should be settled amicably, a desire which my Government cordially reciprocates, regret practical measures suggested by Your Excellency for achieving this end are not in harmony with dignity of Mexico and indisputable justice on which their case is founded.

Consequently request for recall of our Consul-General at Toronto made by Government of Canada in conditions and circumstances set forth, far from being a friendly settlement of incident, would imply an act of unjustified hostility towards Mexican Government.

Government and people of Mexico entertain deepest feeling of friendship for Government and people of Great Britain and have steadfast intention of maintaining and strengthening even more if possible those ties of friendship. Mexico would therefore sincerely regret if this incident should have any repercussion of a nature contrary to realization of their wishes. Ends.

Memorandum referred to at beginning of above note recorded substance of communication made by Secretary of State for Foreign Affairs to Mexican Minister at his interview on 2nd February. Copy of memorandum is being sent by mail.

863.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM 24

London, February 13, 1928

PRIORITY. IMMEDIATE. SECRET. Your telegram No. 27 February 8th. Foreign Secretary greatly regrets that although utmost has been done to persuade the Government of Mexico to accept one or other of the suggestions of His Majesty's Government in Canada for settlement of incident, their efforts have met with no success so far. Secretary of State for Foreign Affairs agrees that

withdrawal no less than grant of an Exequatur of a foreign consul in a Dominion is to be regarded as on the advice of Ministers of that Dominion, even though particular Exequatur was issued before present arrangement came into force as to counter-signature. Not for a moment would Secretary of State for Foreign Affairs suggest withdrawal of this particular Exequatur on advice of Canadian Government could justify the Government of Mexico in breaking off diplomatic relations, but it will be appreciated that if Mexican Government should treat it as justification for such an action, consequences may affect not only Canada and Great Britain but all other parts of the British Empire, and present case would seem to afford illustration of general principle affirmed at the Imperial Conference of 1926 under which the Government immediately concerned informs and if necessary consults, in matters likely to affect their foreign relations, other Governments.

The desire of the Canadian Government not to extend controversy is both appreciated and shared by us and it is of course to the general interests to limit area of differences with Mexico if there must be differences. Of course we are also entirely willing that position as to grant and withdrawal of Exequaturs should in Canadian Parliament be made quite clear.

No doubt explanation will be made in such a way as not to suggest that Great Britain or the other Dominions could in no way be affected by a serious dispute between Canada and Mexico, or to imply that Canadian interests to His Majesty's Government in Great Britain are of no concern. Any statements, it will be appreciated, which could be construed in contrary sense would be interpreted as meaning it is possible for the rest of the Empire to remain unconcerned in an essential matter of foreign policy which may arise out of action taken by or against one part and that any one part is entitled without regard to its bearing in common interests to pursue a foreign policy.

864.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM 26

London, February 15, 1928

SECRET. Secretary of State for Foreign Affairs has sent following telegram to His Majesty's Minister at Mexico City. Begins. As I was unavoidably prevented yesterday from seeing Mexican Minister, Wellesley received him. He pointed out complete disparity between incorrect language held by public official and any language however incorrect held by a private individual. He strongly urged desirability of avoiding so deplorable a result as rupture of relations between Canada and Mexico. Whole trouble had arisen out of Canada's friendly action in acceding to Mexican request for Thorton's services. Was it not hard lines that Canada should be involved by Mexican official in trouble arising out of that friendly act? Minister admitted force of



these arguments but doubted whether they would appeal to President Calles in same way. What latter particularly resented was appearance that Canada alone among Nations was siding with Vatican in quarrel between Mexico and Rome.

Wellesley implored Mexican Minister to disabuse President of that idea. Canadian Government had not the least wish to take sides in that matter, neither had His Majesty's Government in this country. Mr. Mackenzie King's demarcation [*sic*] had in no sense whatever been intended as a criticism of Mexican Government's religious policy. It had been dictated simply and solely by consideration that Mexican Consul-General had unfortunately become a *persona non grata* and that his early disappearance was in the best interests of both Governments. Wellesley urged in light of these explanations Mexican Government should accept suggestion that their Consul should proceed on leave of absence. You should do your utmost to impress these arguments on Mexican Government and induce them to agree to that course. Ends.

865.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM 35

London, February 28, 1928

STATE. SECRET. To His Majesty's Minister at Mexico City your telegram 23rd February, No. 42, was repeated, and he was accordingly instructed to inform the Government of Mexico. As a result of conversation with member of staff of the Mexican Legation in London, following further telegram has been sent to His Majesty's Minister. Begins.

One. It appeared, in the course of conversation yesterday with member of the staff of the Mexican Legation here, that what is particularly preoccupying the Government of Mexico in connection with the Mexican-Canadian dispute is the fear that a precedent would be created if the Consul General at Toronto were to be recalled, which would make it almost impossible for any Mexican diplomatic or consular representative abroad to defend his Government against attack on subject of Mexican legislation on matters relating to religion.

Two. It might be worth while in case you have not already done so to make it quite clear that any Mexican representative abroad is at liberty to issue a statement in the defence of the policy of his Government, provided that it is limited to an explanation of actual facts of the case and a correction of any unfounded allegations, and is couched in proper language.

Three. The Mexican Consul General in the present case however, proceeded beyond what can be called a proper defensive statement to deliver an attack on Roman Catholic Church as such in a country where forty percent of inhabitants are of the Roman Catholic faith. Therefore, in recognising that



their Consul General went somewhat beyond the practice which is sanctioned by International usage the Government of Mexico would not in any way be restricting the right of their representative to issue proper defensive statements or communiques whenever their Government thought fit to do so.

Four. I am in paragraph two, of course, referring to defense by diplomatic or consular agent of his own country or Government against criticism by private citizens or press. In case of statements or actions of foreign Government being objected to, representations through the usual diplomatic channels would of course be made to that Government. [Ends.]

866.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

PARAPHRASE OF TELEGRAM 109

London, June 16, 1928

SECRET. With reference to my secret telegram of the 7th March, No. 42, it is reported by His Majesty's Minister at Mexico City that he has been privately informed by Mexican Minister for Foreign Affairs that Mexican Consul General at Toronto will be moved in the course of a month to another post.

867.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM 178

London, October 4, 1928

My telegram 15th September, No. 170. Application has now been received from the Mexican Minister for issue of Exequatur to Fernandez as Consul General at Toronto for the Dominion of Canada. Please telegraph whether any objection, and if not, whether recognition will be accorded.

868.

*Le secrétaire d'État aux Affaires extérieures au secrétaire  
aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

PARAPHRASE OF TELEGRAM 223

Ottawa, October 16, 1928

SECRET. With reference to your secret telegram of the 11th October, No. 185, on assumption that appointment Fernandez supersedes that of Barron

prepared to grant recognition but should be glad first to receive any particulars now in your possession as to his career as referred to in my telegram of the 4th October, No. 217.

## LES PAYS-BAS/NETHERLANDS

869.

*Le consul général des Pays-Bas au Premier ministre*  
*Consul General of The Netherlands to Prime Minister*

No. 4051

Montreal, October 29, 1928

Sir,

As you will be aware, article 1 of the Convention of Commerce between Canada and The Netherlands<sup>1</sup> provides that articles the produce or manufacture of The Netherlands imported into Canada shall not be subjected to other or higher duties or charges than those paid on the like articles the produce or manufacture of any other foreign country.

Article 5 of the same convention interprets the term "Netherlands", as used above, in the following words:

The name "Netherlands" wherever used in this Convention shall be held to include the Netherlands Indies, Surinam and Curaçao.

There is no doubt, therefore, that articles the produce or manufacture of The Netherlands (which term *includes* the three Netherland colonies) enjoy most favoured nation treatment with respect to the import duties levied on such articles upon their importation into Canada, and that consequently the rates provided for in the *intermediary* column of the customs tariff shall apply thereto, or such lower rates as may have been granted by Canada to any other foreign country.

The Government of The Netherlands is however informed that goods the produce of one of the Netherland colonies, forwarded direct to The Netherlands for the purpose of undergoing a manufacturing or finishing process, and thereupon exported direct to Canada, are being subjected to the rates provided for in the *general* tariff, if "less than one-fourth the cost of production of such articles has been produced through the industry of" The Netherlands, the customs Service holding that the goods in question lose their identity upon entering the mill in The Netherlands, so that they are not any longer considered to be a product of the said Netherland colony, and that, because less than 25% of the price is attributable to Netherland industry, they are neither to be regarded as a product of The Netherlands.

By this fiction goods which have never been on any other than Netherlands territory and are therefore 100% Dutch are deprived of their nationality and of the advantages granted in article 1 of the aforesaid convention.

<sup>1</sup> Voir Volume 3, document 797.

<sup>1</sup> See Volume 3, Document 797.

The Netherland Government is of the opinion that with respect to goods produced in a Netherland colony and finished in The Netherlands, or vice versa, the question of loss of identity or nationality cannot arise, inasmuch as it clearly follows from the terms of article 5 quoted above that all Netherland territory is to be considered as one.

I beg to request you to be good enough and bring the terms of article 5 to the notice of the Department of National Revenue, and shall feel greatly obliged if you will kindly let me have the assurance that goods the produce or manufacture of one of the Netherland colonies and having been submitted to a manufacturing or finishing process in The Netherlands, or vice versa, will henceforth be dutiable according to the intermediary or treaty rates only irrespective of the percentage of their price attributable to such manufacturing or finishing. In case you are not in a position to give me the said assurance, I should be very grateful if you could see your way to let me have a copy of the Act of Parliament authorizing the customs Service, notwithstanding the terms of the convention referred to, to hold that goods the produce of a Netherland colony lose their identity when entering the mill in The Netherlands, or vice versa.

I have etc.

J. A. SCHUURMAN

870.

*Le sous-secrétaire d'État aux Affaires extérieures  
au consul général des Pays-Bas*

*Under-Secretary of State for External Affairs  
to Consul General of The Netherlands*

Ottawa, November 16, 1928

Sir,

With reference to my letter of November 2nd, relative to the rates of duty applied to goods the product of one of the Netherlands colonies forwarded direct to The Netherlands for the purpose of undergoing a manufacturing and finishing process and thereupon exported direct to Canada, I have the honour to inform you that a reply has been received from the Department of National Revenue, the competent authority of this Government, in which it is stated that it would appear that in previous rulings of that Department the interpretation of the term "Netherlands" as given in Article 5 of the Convention of Commerce between Canada and The Netherlands was overlooked and, therefore, certain rulings were in error in this respect.

In reference to goods produced in a Netherland colony—the Netherlands Indies, Surinam, Curacao—and finished in The Netherlands, or *vice versa*, it would appear that form M.A. invoice could properly be certified to and the goods, therefore, entitled to entry under Treaty Rates.

I have etc.

O. D. SKELTON

871.

*Le sous-secrétaire d'État aux Affaires extérieures  
au consul général des Pays-Bas*

*Under-Secretary of State for External Affairs  
to Consul General of The Netherlands*

Ottawa, April 23, 1929

Sir,

With reference to your despatch No. 1235, of April 6th, 1929, relative to the question of reciprocal exemption of shipping profits from income tax, I have the honour to advise that this Government is willing to facilitate an arrangement with the Government of The Netherlands for reciprocal exemption from income tax of income arising in their respective countries from the operation therein of ships owned or controlled by and used in the business of persons and corporations resident in the country of the other. Accordingly, I have the honour to submit the following draft Agreement for the consideration of your Government. . . .

If this undertaking meets with the approval of your Government I have the honour to advise that the Canadian Government is prepared to conclude a definitive Agreement on this basis by an Exchange of Notes.

I have etc.

O. D. SKELTON

872.

*Le consul général des Pays-Bas au sous-secrétaire d'État  
aux Affaires extérieures*

*Consul General of The Netherlands to Under-Secretary of State  
for External Affairs*

No. 2222

Montreal, June 28, 1929

Sir,

I have not failed to transmit to Her Majesty's Government copies of the letter dated April 23rd last, in which you informed me that the Canadian Government is willing to facilitate an arrangement with the Government of The Netherlands for reciprocal exemption from income tax of income arising in their respective countries from the operation therein of ships owned or controlled by and used in the business of persons and corporations resident in the country of the other.

<sup>1</sup> Le projet était essentiellement semblable à celui reproduit sous le n° 753.

<sup>1</sup> The draft text was essentially the same as that printed in Document 753.

I am directed to state in reply that the draft of the text, as given in your letter mentioned above, meets with the approval of the Netherland Government, but that the latter would prefer section 2 to read as follows:

2. In respect of the Netherlands, the Netherland Government undertakes: that in accordance with the laws of the Netherlands relating to income tax ("Wet op de inkomstenbelasting van 19 December 1914, Staatsblad No. 563; wet op de verdedigingsbelasting II van 28 December 1926, Staatsblad No. 430") the income from the operation of ships owned or operated by persons or corporations resident in Canada, shall in like manner be exempt from taxation; and that in accordance with the laws of the Netherlands relating to dividend and tantième tax ("Wet op de Dividend en Tantiëm belasting van 11 Januari 1918, Staatsblad No. 4") the profits from the operation of ships owned or operated by corporations resident in Canada, shall in like manner be exempt from taxation.

You will see that this version, inspired by the nature of our legislation on the subject, fully covers the object in view: exemption from income tax and even some similar minor levies.

You would oblige me by kindly letting me know whether the wording of section 2 as suggested by the Netherland Government, meets with the approval of the Dominion Government.<sup>1</sup>

As I am instructed to cable, I should be thankful if you also would telegraph me your reply.

I am to add that the Government of The Netherlands would wish the agreement to be concluded in the Netherland and English languages, and will forward me along with the full powers, an official Netherland translation of the text of the various sections.

I have etc.

J. A. SCHUURMAN

873.

*Le consul général des Pays-Bas au sous-secrétaire d'État  
aux Affaires extérieures*

*Consul General of The Netherlands to Under-Secretary of State  
for External Affairs*

No. 1472

Montreal, April 2, 1930

Sir,

Some time ago I had the honour of communicating with you on the subject of the rule that goods imported from a certain country are only considered to be the produce of that country if at least 50% (then 25%) of the value of such goods is attributable to production in that country. I con-

<sup>1</sup> Ces modifications acceptées. L'accord fut mis au point le 23 septembre 1929 par un échange de notes.

<sup>1</sup> These changes were accepted and the agreement was formalized by an exchange of notes on September 23, 1929.



tended that commodities grown in one of the Netherland colonies and finished in The Netherlands, or vice versa, should be deemed to comply with the above rule in case at least 50% (then 25%) of the value of the finished goods is attributable to production in the colony in question and in The Netherlands, combined. My reason for taking this stand was, as you will remember, that the Convention of Commerce between The Netherlands and Canada provides in article 5 that

the term 'Netherlands' wherever used in this Convention shall be held to include the Netherlands Indies, Surinam and Curaçao.

and that consequently for the application of favoured nation treatment, which in the said Convention is granted by The Netherlands to Canada and by Canada to the 'Netherlands', the Mother Country and its colonies should be treated as one.

The point was conceded in your letter of November 16th, 1928.

The same matter has now come up in regard to the Customs Duty to be levied on tea.

You will be aware that the Canadian tariff distinguishes between

(1) "tea imported direct from the country of origin, and tea purchased in bond in the United Kingdom", which tea, under item 28-a of the tariff, is subject to a British preferential rate of 7¢ per pound, an intermediate rate of 10¢ per pound and a general rate of 10¢ per pound.

and

(2) "tea, not otherwise provided for", which tea, under item 29-a of the tariff, is subject to a uniform rate of 10¢ per pound plus 10% ad valorem (British preferential, intermediate, and general).

I am directed to state that in the opinion of the Netherland Government, whenever the 'Netherlands' are mentioned as the country of origin, this term shall, in accordance with article 5 of the aforesaid convention, be held to include the three Netherland colonies (viz. The Netherlands Indies, Surinam and Curaçao), and that therefore tea the produce of one of these colonies and imported direct into Canada from the Netherlands is subject only to the rate of 10¢ per pound specified under item 28-a in the intermediate column of the tariff, and not to the rate of 10¢ per pound plus 10% ad valorem specified under item 29-a.

You will oblige me by being good enough to let me have a confirmation that this is also the opinion of the Government of Canada. In that event I shall be grateful if instructions to this effect be given to the Customs Officers and if you will kindly enable me to supply my Government with a dozen copies of the Memorandum or Bulletin or Circular containing these instructions.

I have etc.

J. A. SCHUURMAN

874.

*Le consul général des Pays-Bas au Premier ministre*  
*Consul General of The Netherlands to Prime Minister*

No. 2155

Montreal, May 20, 1930

Sir,

The announcement which you made in the House of Commons about a year ago, and which was on various occasions repeated by several of the Cabinet Ministers, namely that Canada would trade with countries willing to trade with her, has not failed to arouse considerable interest in The Netherlands in view of the fact that The Netherlands are one of Canada's best customers. This fact is not generally realized in the Dominion, but is nevertheless borne out by the Canadian statistics. Leaving aside the year 1929, in which the movement of trade was abnormal owing to the grain situation, the volume of commerce between The Netherlands and Canada, since the post-war depression, has continually and rapidly increased. According to the official publication "Trade of Canada" for the Calendar Year 1928, issued by the Dominion Bureau of Statistics, the figures for the six countries which purchased each more than \$25,000,000 worth of Canadian goods were those mentioned in the statement enclosed.<sup>1</sup>

It appears from this statement that The Netherlands were Canada's third largest customer, ranking immediately after the United States of America and the United Kingdom. The said figures demonstrate, moreover, that for every dollar's worth of merchandise sold to Canada The Netherlands bought Canadian goods to the amount of \$5.39, which is considerably more than any other of the principal countries doing business with Canada, and more than twice as much as the average for the entire British Empire.

There is no doubt, therefore, that The Netherlands are among the countries most willing to trade with Canada.

Now, the provision in the budget to exempt from import duty all tea wholly produced on British territory deals a death blow to the tea imports from The Netherlands East Indies.

I fully appreciate the fact that the extension of the British preference was meant by the Canadian Government to substantiate the policy announced: to trade with countries willing to trade with Canada. But if this applies to the British Empire, it also applies—with at least equal force—to the country I represent.

It is therefore that I am instructed by my Government to submit to you the question whether the Government of the Dominion would be disposed to devise means by which the importation of tea from The Netherlands and the Netherland East Indies would be rendered possible again.

<sup>1</sup> Non reproduite.

<sup>1</sup> Not printed.

I trust this question will be met in the same friendly spirit in which it is asked.

It might, of course, be argued that tea is not grown in The Netherlands but in the Netherland East Indies. Section 5 of the Convention of Commerce between The Netherlands and Canada, which governs the situation in the matter of customs duties, provides however that the name, Netherlands shall be held to include the Netherlands Indies and the other Netherland colonies. Furthermore, I might point out that tea is not grown in the United Kingdom either but in Ceylon, and British India. And if one compares the figures for the latter territories as they appear from the publication aforesaid for the year 1928 with those of the Netherland East Indies, it is evident that the Netherland East Indies, with \$3.65 worth of Canadian goods bought for every dollar's worth sold to Canada, are relatively a much better customer of this Dominion, than either Ceylon or British India, and in an absolute sense certainly a better customer than Ceylon.

I beg to request you to kindly give this matter your attention and in due course to inform me of the result.

I have etc.

J. A. SCHUURMAN

875.

*Le consul général des Pays-Bas au sous-secrétaire d'État  
aux Affaires extérieures*

*Consul General of The Netherlands to Under-Secretary of State  
for External Affairs*

No. 3915

Montreal, October 15, 1930

Sir,

I duly received your letter of June the 9th, 1930<sup>1</sup> with respect to the customs duty under the tariff of Canada on tea produced in the Netherlands East Indies and imported direct or via The Netherlands. You informed me in that letter that tea imported into Canada direct from the Netherlands East Indies is entitled to entry under tariff item 28a, but if shipped from the Netherlands East Indies to The Netherlands and imported from The Netherlands to Canada it would require to be entered under tariff item 29a.

I have not failed to bring the above to the knowledge of the Netherland Government which has given the matter due consideration. Although by the suppression of the customs duty on British grown tea Canada practically destroyed our tea exports to the Dominion and the question whether section 28a or section 29a of the tariff would apply to tea from the Netherlands Indies therefore has no immediate consequences, my Government wishes me to point out that it maintains its attitude in respect to art. 5 of the con-

<sup>1</sup> Non reproduite.

<sup>1</sup> Not printed.

vention of trade between The Netherlands and Canada, signed at Ottawa July 11th, 1924, of which I beg to enclose a copy.<sup>1</sup> You will see that art. 5 reads as follows:

The name "Netherlands" wherever used in this Convention shall be held to include the Netherlands Indies, Surinam and Curaçao.

Whenever in articles 1, 2 or 3 of the said convention "articles the produce or manufacture of The Netherlands" are mentioned, this term therefore includes articles the produce or manufacture of any of the four parts of the Kingdom of The Netherlands, viz (1) The Netherlands in Europe, (2) the Netherland East Indies, (3) Surinam or Dutch Guyana, and (4) Curaçao or the Dutch West Indies, these four forming one indivisible unity as stated expressly in article 5 of the convention.

Consequently tea produced in the Netherland East Indies and exported from The Netherlands to Canada, or any other kind of goods the produce or manufacture of one of the four parts of the Kingdom and exported to Canada from one of the other parts of the Kingdom should, under article 5 aforesaid, be considered as imported into Canada direct from the country of growth or production.

You will oblige me by kindly bringing the above to the knowledge of the Departments concerned.

I have, etc.

J. A. SCHURMAN

876.

*Le sous-secrétaire d'État aux Affaires extérieures  
au consul général des Pays-Bas*

*Under-Secretary of State for External Affairs  
to Consul General of The Netherlands*

Ottawa, October 22, 1930

Sir,

I have the honour to advise you that this Department has received from the Department of National Revenue a reply relative to your despatch No. 3915, of 15th October, 1930.

The Department of National Revenue have given your representations therein their most careful consideration, but find themselves unable to change their opinion of the proper application of Article 5 of the Convention of Commerce between Canada and The Netherlands, namely, that this Convention extends to the Netherlands Indies, Surinam and Curaçao the same privileges accorded The Netherlands proper, but does not make all parts a single unit for the application of the provisions of the Convention.

<sup>1</sup> Vraisemblablement le document 385.

<sup>1</sup> Not printed.

The Department of National Revenue accordingly holds that only tea imported directly from these countries should be entered under Tariff Item 28a as "tea imported direct from the country of growth and production".

I have etc.

O. D. SKELTON

## TERRE-NEUVE/NEWFOUNDLAND

877.

### *Avis des Lords du Conseil judiciaire du Conseil privé*

### *Report of the Lords of the Judicial Committee of the Privy Council*

IN THE MATTER OF THE BOUNDARY BETWEEN THE DOMINION OF CANADA  
AND THE COLONY OF NEWFOUNDLAND IN THE LABRADOR PENINSULA

March 1, 1927

Present at the Hearing:

The Lord Chancellor.

Viscount Haldane.

Viscount Finlay.

Viscount Sumner.

Lord Warrington of Clyffe.

(Delivered by the Lord Chancellor)

The Government of the Dominion of Canada and the Government of the Colony of Newfoundland having petitioned His Majesty to refer to the Judicial Committee of the Privy Council the following question:

What is the location and definition of the boundary as between Canada and Newfoundland in the Labrador Peninsula under the Statutes, Orders in Council and Proclamations?

that question has been referred to this Board under the Statute 3 and 4 Will. IV, c. 41, s. 4, for its consideration and advice. The Board has accordingly heard evidence and arguments upon the matter, and has now arrived at a conclusion . . .

At this point it is desirable to set out the contentions of the two parties. The contention of the Dominion is that the "coast" which by the Commission and Proclamation of 1763, as modified by the subsequent statutes, was annexed to Newfoundland, is

a strip of maritime territory, extending from Cape Chidley at the entrance to Hudson Strait, to the eastern headland of the bay or harbour of Blanc Sablon on the Strait of Bellisle, and comprising, in its depth inland, only so much of the land immediately abutting on the sea, above low-water mark, as was accessible and useful to the British fishermen annually resorting to that coast in the ordinary



conduct of their fishing operations, for the purposes of 'the open and free fishery' extended to that coast by the Royal Proclamation and carried on there and for those purposes only;

but, recognising that it may be found impracticable to lay down such a line upon the land, Canada suggests "that the boundary be located as a line to be drawn from the eastern headland of the bay or harbour of Blanc Sablon on the south to Cape Chidley on the north at a distance from high-water mark on the seacoast of the peninsula of Labrador of one mile."

On the other hand, the contention of the Colony of Newfoundland is that the boundary should be "a line drawn due north from Ance Sablon as far as the fifty-second degree of North latitude, and should be traced from thence northwards to Cape Chidley along the crest of the watershed of the rivers flowing into the Atlantic Ocean."

In order to make the matter clear, a sketch-map illustrating the two claims is annexed.<sup>1</sup> On this map the territory proposed by the Dominion as the land to be allotted to Newfoundland is indicated by a thick black line following the line of the seashore, while the boundary claimed by the Colony is marked by a broken line with a hatching over it.

It may be added that the Colony contends that, in the event of the Dominion establishing its main contention, the littoral strip of land which would then represent the territory annexed to Newfoundland should not cross the mouth of the great Hamilton Inlet as shown on the sketch-map, but should be carried along the northern shore of that inlet and round the head of Goose Bay and so back along the southern shore of the inlet to the seacoast.

Before examining these claims in detail, their Lordships think it desirable to formulate two propositions which appear to be common to both sides, and which indeed are beyond dispute.

First, the word "coast" or "coasts" (for both are used in the documents) is a word of undefined meaning; and while it is usually to be understood in the sense which is given to it in Dr. Johnson's and other dictionaries, that is to say, as meaning "the edge or margin of the land next the sea" or "the shore," there are many examples of its being used to denote a considerable tract of land bounded by and looking towards the sea. In Murray's Oxford Dictionary (1891) it is stated that the term "is familiarly applied in different regions to specific littoral districts, in India especially to the Coromandel coast"; and in the "Encyclopaedia Britannica" (12th edition, 1922) that "the word is sometimes applied to the bank of a river or lake and sometimes to a region (cf., Gold Coast, Coromandel Coast), which may include the hinterland." In the Appendix of documents used in this inquiry a number of extracts are given from the Old and New Testaments and from well-known authors, in which the word "coast" is used as signifying a whole country, sometimes extending from the sea to the sources of the rivers running into it; and it is plain that the word is susceptible of more constructions than one, and that its precise meaning must depend on the subject and context.

<sup>1</sup> Non reproduite.

<sup>1</sup> Not printed

The second proposition which appears to be beyond dispute in this case, is that the effect of the Orders in Council, Proclamations and Statutes which have to be construed, was to give to the Government of Newfoundland, not mere rights of inspection and regulation exercisable upon a line of shore, but territory which became as much a part of the Colony as the island of Newfoundland itself, and which was capable of being defined by metes and bounds. This is evident from the form of the Commissions issued to Captain Graves and his successors, by which they were appointed Governors of the island of Newfoundland and of the coast of Labrador in identical terms, and, indeed, in one and the same sentence, and in which reference is again and again made to the "territory" of Labrador comprised in the Commission. If there remained any doubt upon this point, it would be set at rest by the language of the statutes of 1774, 1809 and 1825, which refer to the territory in Labrador as being "annexed" first to the Government of Newfoundland and then to the Government of Quebec, and afterwards as being "re-annexed" to Newfoundland and partly "re-annexed" to Lower Canada. Stress was laid by Counsel for Canada on the declaration in the Proclamation of 1763 that the Labrador coast had been put under the "care and inspection" of the Government of Newfoundland; but this ambiguous expression cannot affect the plain inference to be drawn from the other documents cited that what was added to Newfoundland was a tract of land, having a boundary which can be located and defined. Indeed, this is assumed by the terms of reference to this Board, to which the parties have agreed.

In these circumstances the question to be determined is, not whether Newfoundland possesses territory upon the peninsula of Labrador, but what is the inland boundary of that territory. Is it to be defined by a line following the sinuosities of the shore at a distance of one mile or thereabouts from high-water mark, or is it to be found at the watershed of the rivers falling into the sea on that shore? No third alternative has been suggested by any person. . . .

With regard to the limit in depth of the country which may be described as "coast", where that term is used in the wider sense, it is argued that the natural limit is to be found (in the absence of special circumstances) in the watershed which is the source of the rivers falling into the sea at that place; and there is much to be said in favour of that view. It is consistent with the doctrine of international law by which the occupation of the seacoast carries with it a right to the whole territory drained by the rivers which empty their water into its line (see Hall's *International Law*, 5th edition, page 104; Westlake's *International Law*, Part 1, page 112; and Lawrence's *Principles of International Law*, 3rd edition, page 151); and it is certainly difficult, in the absence of any specified boundary or of any special feature (such as a political frontier), which could be taken as a boundary, to suggest any point between the seashore and the watershed at which a line could be drawn. . . .

It is not until the year 1900 that the boundary now claimed by Canada is found upon any map; but it then appears upon a map (C39) issued by

the Department of the Interior, where a dotted line is drawn along the line of the shore and is marked "boundary undefined." It is also in later maps; but as these were published after the dispute had arisen, no importance attaches to them.

The maps here referred to, even when issued or accepted by departments of the Canadian Government, cannot be treated as admissions binding on that Government; for even if such an admission could be effectively made, the departments concerned are not shown to have had any authority to make it. But the fact that throughout a long series of years, and until the present dispute arose, all the maps issued in Canada either supported or were consistent with the claim now put forward by Newfoundland, is of some value as showing the construction put upon the Orders in Council and statutes by persons of authority and by the general public in the Dominion.

Upon the whole, their Lordships, having considered the facts and arguments put before them with the care which is necessary in a matter of such grave importance, have come to the conclusion that the claim of the Colony of Newfoundland is in substance made out; but there are two points of detail to be mentioned.

First, in many of the maps issued after the year 1882, and particularly in the official maps above mentioned and numbered N 38, 41 and 43, and in maps issued by W. and A. K. Johnston (N 37) and by Stanford (N 40), the southern boundary of Labrador is shown as running, not from the point where the north and south line drawn from Ance Sablon meets the fifty-second parallel, and in a straight line along that parallel, but from a point where that north and south line would reach the watershed north of the fifty-second parallel and along that watershed as far as the head of the Romaine river. A boundary so drawn along the watershed would no doubt be more convenient than one which follows the arbitrary line of the fifty-second parallel, and would have the advantage of throwing into Canada the whole course of the rivers which run into the gulf of St. Lawrence. But their Lordships would not feel justified in adopting a boundary which, however convenient in itself, is not warranted by the terms of the statute of 1825; and they are of opinion that the line must be drawn along the parallel as far as the supposed river of St. Johns, namely, the Romaine river. According to the claim of the Colony as illustrated by the sketch-map, the line would be continued westward across the river until it met the height of land; but there is no warrant in the statute of 1825 for such a continuation of the line, the effect of which would be to give to Newfoundland a part of the original province of Quebec as constituted under the Proclamation of 1763. The line should follow the parallel only until it meets the river, and should then turn north to the watershed.

Secondly, a small island called Woody Island, lying opposite to the bay of Ance Sablon, is claimed both by Canada and by Newfoundland. In their Lordships' opinion the transfer to Canada by the Act of 1825 of so much of the coast as lies to the westward of a line drawn due north and south from the bay or harbour of Ance Sablon "inclusive", with the islands adjacent to that part of the coast, carries with it Woody Island, which accordingly belongs to the Dominion.

For the above reasons their Lordships are of opinion that, according to the true construction of the Statutes, Orders in Council and Proclamations referred to in the Order of Reference, the boundary between Canada and Newfoundland in the Labrador Peninsula is a line drawn due north from the eastern boundary of the bay or harbour of Ance Sablon as far as the fifty-second degree of north latitude, and from thence westward along that parallel until it reaches the Romaine river, and then northward along the left or east bank of that river and its head waters to their source and from thence due north to the crest of the watershed or height of land there, and from thence westward and northward along the crest of the watershed of the rivers flowing into the Atlantic Ocean until it reaches Cape Chidley; and they will humbly advise His Majesty accordingly.

878.

*Le ministre du Commerce au secrétaire à la Colonie, Terre-Neuve*  
*Minister of Trade and Commerce to Colonial Secretary, Newfoundland*

Ottawa, January 31, 1928

Dear Sir John,

Pursuant to your letter of August 25th which was handed to me by Mr. H. J. Russell, the General Manager of the Newfoundland Railway, and to our further conversation of this morning.

I will be quite prepared to recommend to my colleagues in the Government, that assistance to Canadian-Newfoundland trade be given by the payment of a subsidy of \$35,000. per year to the S. S. *Caribou*, providing some further trade convention can be concluded between our two countries, which would, by the increase of trade, justify the payment thereof.

I sincerely trust that as a result of our conversation of this morning, that the convention under discussion may be consummated and can assure you that if it is, you will find the Department of Trade and Commerce most anxious to facilitate in any way in trade matters.

With kindest personal regards, I am,

Yours sincerely,

JAMES MALCOLM



879.

*Le ministre des Finances au secrétaire à la Colonie, Terre-Neuve*  
*Minister of Finance to Colonial Secretary, Newfoundland*

Ottawa, January 31, 1928

Dear Sir John,

In reference to our conversation of this morning relating to trade matters between Canada and Newfoundland. I am prepared to recommend to my colleagues that, in addition to the freedom from customs duty now accorded to Newfoundland fish, the benefits of our British preferential tariff be granted to goods the produce or manufacture of Newfoundland, if we can have the assurance of your Government that they will extend to goods the produce or manufacture of Canada the benefit of the most favourable treatment in duties and charges granted in respect of like goods imported from any British or foreign country.

Yours faithfully,

JAMES A. ROBB

880.

*Le secrétaire à la Colonie, Terre-Neuve, au ministre de la Justice*  
*Colonial Secretary, Newfoundland, to Minister of Justice*

St. John's, February 17, 1928

Dear Mr. LaPointe,

I regret that during my recent visit to Ottawa I did not have the opportunity of ascertaining your views with respect to the sale or transfer of Labrador territory, hitherto under dispute between the Government of Canada and the Government of Newfoundland, but awarded last year by the Privy Council of England, to Newfoundland. It has been suggested that your Government would favourably consider the question of opening negotiations, and would be prepared to appoint a delegation to meet a similar delegation from the Government of Newfoundland, to ascertain and consider the terms of such transfer or purchase. Since my return here, I have consulted some of my Executive colleagues, and they are favourable to such a conference, provided it was ascertained in the meantime that your Government were desirous of making a purchase, at a price that would stand reasonable prospects of acceptance by the people, to whom this matter must necessarily be submitted.

Would you be good enough to give this matter your early and earnest consideration, and let me have a reply, in a confidential way, after which I



will be prepared to take up the question officially. I would be glad if you would acquaint me of the proper official channel through which to carry on further negotiations or correspondence.

Thanking you in anticipation of an early reply.

I remain etc.

J. R. BENNETT

881.

*Le ministre de la Justice au secrétaire à la Colonie, Terre-Neuve*  
*Minister of Justice to Colonial Secretary, Newfoundland*

Ottawa, March 23, 1928

Dear Sir John,

I am sorry I have not yet answered your letter concerning the question of the territory which was awarded to Newfoundland by the Privy Council of England last year.

I have duly noted that your Government would be favourable to a conference provided our Government would be desirous of making a purchase at a reasonable price.

My colleagues wish me to submit the matter to the Quebec Provincial Government as they are the party which are most interested in the matter. I shall be pleased to communicate with you as soon as this is done.

As to the channel through which you might carry on further negotiations, I would advise that it should be through the Secretary of State for External Affairs, who is the Prime Minister.

Yours sincerely,

ERNEST LAPOINTE

882.

*Le ministre de la Justice au premier ministre du Québec*  
*Minister of Justice to Prime Minister of Quebec*

Ottawa, 23 mars 1928

Mon cher Premier,

Je t'inclus copie d'une lettre que j'ai reçu[e] il y a près d'un mois du Secrétaire Colonial de Terre-neuve. J'ai soumis cette lettre à mes collègues, qui m'ont avisé de te la communiquer afin de savoir ton opinion à ce sujet.

J'ai eu hier la visite de monsieur de Champlain, et je lui ai dit en termes plutôt énergiques que nous ne voulions pas de lui ni d'autres personnes comme intermédiaires dans une question de ce genre.

Veuillez etc.

ERNEST LAPOINTE

883.

*Le secrétaire adjoint à la Colonie, Terre-Neuve, au ministre des Finances*  
*Deputy Colonial Secretary, Newfoundland, to Minister of Finance*

At Ottawa, May 3, 1928

Dear Sir,

I have the honour to forward herewith a copy of Minute<sup>1</sup> of the Honourable Executive Council of Newfoundland, passed on the 26th of March last, with reference to the proposed trade agreement between Canada and Newfoundland.

Our legislature is now in session and the Minister of Finance will introduce an amendment to the Revenue Act giving most favourable treatment in duties and charges to goods produced or manufactured in Canada. It will be necessary that some date be fixed upon which the said agreement will come into operation. I think that the date of assent by His Excellency the Governor to the Revenue Act in Newfoundland would be a suitable date, as the assent of the Governor brings the Act into effect. As soon as that date is known we shall wire you so that you may, in your proposed Order-in-Council, incorporate that date for the bringing of the agreement into effect in Canada.

With the passing of the amount for the subsidy in supplementary supply, everything will be completed on both sides.

Yours sincerely,

ARTHUR MEWS

884.

*Le ministre des Finances au secrétaire adjoint à la Colonie, Terre-Neuve*  
*Minister of Finance to Deputy Colonial Secretary, Newfoundland*

Ottawa, May 4, 1928

Dear Mr. Mews,

I have received your letter of the 3rd instant enclosing a copy of a Minute of the Honourable the Executive Council of Newfoundland, passed on the 26th of March last, with reference to the proposed trade agreement between Newfoundland and Canada.

As soon as you let me know the date upon which assent is to be given by His Excellency the Governor of Newfoundland to the enactment giving most favourable treatment in duties and charges to goods produced or manufactured in Canada, I will recommend to Council that the benefit of the British preferential tariff be extended to Newfoundland. The Order in Council founded upon this recommendation will be published in the Canada Gazette on the date on which the assent of your Governor is given to the Act in

<sup>1</sup> Non reproduit.

<sup>1</sup> Not printed.

question. Under the provisions of section 4 of our Customs Tariff, the publication in the Canada Gazette will bring into effect the provisions of the Order from the date of such publication.

Yours faithfully,

JAMES A. ROBB

885.

*Le secrétaire à la Colonie, Terre-Neuve, au Premier ministre*  
*Colonial Secretary, Newfoundland, to Prime Minister*

St. John's, June 5, 1928

Sir,

May I have the honour of calling your attention to the enclosed correspondence which took place between the Hon. Mr. La Pointe, Minister of Justice, and myself, some few weeks ago, in relation to the Labrador territory. Mr. La Pointe in his letter, intimated that the matter in question would first be submitted to the Quebec Provincial Government, as they are the party most interested. I have been waiting for an intimation that this had been done, but evidently through pressure of legislative and other official duties, the matter has been allowed to stand over. In the meantime, however, I decided to act on the advice of Mr. La Pointe, and communicate with you as Minister of External Affairs with a view of, if possible, definitely ascertaining whether your Government, or the Government of the Province of Quebec, is prepared to open negotiations to consider the sale or transfer of the territory in question, in accordance with the suggestions set forth in my letter to Mr. La Pointe under date 17th February, 1928. (Copy enclosed).<sup>1</sup>

Trusting you will give this matter your earnest and favourable consideration, and soliciting the courtesy of an early reply.

I have etc.

J. R. BENNETT

886.

*Le secrétaire à la Colonie, Terre-Neuve, au ministre des Finances*  
*Colonial Secretary, Newfoundland, to Minister of Finance*

TELEGRAM

St. John's, June 14, 1928

His Excellency the Administrator on the 13th of June gave assent to the amendment to the Revenue Act, one section of which reads as follows:

It shall be lawful for the Governor-in-council to extend to any country within the British Empire any preferential customs tariff treatment which may be accorded by treaty or otherwise to any foreign country.

Under date 14th June, His Excellency the Administrator has approved order-in-council under the amendment to the Revenue Act extending to

<sup>1</sup> Voir document 880.

<sup>1</sup> See Document 880.

goods the produce or manufacture of Canada the benefit of most favourable treatment in duties and charges granted in respect of like goods imported from any British or foreign country. You may now make your order-in-council bringing arrangement into effect on the side of Canada. Please permit me to express my gratification upon the conclusion of this arrangement and my appreciation of the good-will and co-operation of yourself and Mr. Malcolm.

J. R. BENNETT

887.

*Le premier ministre de Terre-Neuve au Premier ministre par intérim*  
*Prime Minister of Newfoundland to Acting Prime Minister*

St. John's, October 3, 1928

Dear Sir,

Mr. Joseph de Champlain called to see me yesterday and we discussed the subject of the sale of the area in Labrador to which Newfoundland established its claim before the Privy Council.

He told me that you had suggested my taking up this matter direct with the Dominion Government.

We would be prepared to discuss terms regarding the sale of the entire territory in Labrador under our jurisdiction, subject, of course, to the reservation of our existing fishery rights on the Coast.

We would very much prefer to deal with the Canadian Dominion rather than with any outside parties, and, if you so desire, should be glad to arrange for a conference on the matter at any time suitable to your Government.

It should be definitely understood that any arrangement that might be arrived at as a result of such discussion would be subject to ratification by the Newfoundland Parliament.

Yours faithfully,

F. C. ALDERDICE

888.

*Le premier ministre du Québec au ministre de la Justice*  
*Prime Minister of Quebec to Minister of Justice*

Québec, 17 octobre 1928

Mon cher Ernest,

L'honorable M. Alderdice, premier ministre de Terre-Neuve, m'adresse copie d'une lettre qu'il t'a envoyée le 5 octobre courant, pour suggérer que nous nous rencontr[ions] pour discuter la question de l'achat de cette partie du Labrador qui a été attribuée au Dominion par le Jugement du Conseil privé.

Le nom de M. Joseph de Champlain est encore mêlé à cette transaction.

Je te serais reconnaissant si tu voulais bien me laisser savoir ce que tu dois lui répondre, pour que nous puissions prendre la même attitude.

Je suggérerais que tu écrives à M. Alderdice pour lui dire que le prix qui nous a été fait jusqu'à maintenant fermait la porte à toute négociation, mais que s'il voulait te mentionner confidentiellement un chiffre qui pourrait servir de base à des négociations,—sans naturellement se compromettre en aucune manière—votre gouvernement verra alors s'il y a lieu d'entamer des pourparlers. Je suis convaincu que le Labrador est un lourd fardeau pour Terre-Neuve et qu'il n'est pas capable d'en prendre soin, ni de le développer. Mais le jugement du conseil privé est encore trop récent, je crois, pour qu'on nous fasse des conditions faciles.

Sincèrement à toi,

L. A. TASCHEREAU

889.

*Mémorandum du sous-secrétaire d'État aux Affaires extérieures  
au ministre de la Justice*

*Memorandum from Under-Secretary of State for External Affairs  
for Minister of Justice*

Ottawa, July 2, 1929

Attached is a copy of a letter from the Colonial Secretary of Newfoundland to Joseph de Champlain regarding the sale of Labrador.

It was given to me by Mr. Champlain on a visit last week. I informed him that if at any time the Canadian Government wished to discuss this question, it would prefer to do so direct, but that I would bring the letter to the attention of the Prime Minister and yourself.

O. D. SKELTON

[PIÈCE JOINTE/ENCLOSURE]

*Le secrétaire à la Colonie, Terre-Neuve, à Joseph de Champlain  
Colonial Secretary, Newfoundland, to Joseph de Champlain*

St. John's, June 7, 1929

Sir,

I have the honour to acknowledge the receipt of your communication under date May 30th, in which you declare your ability to dispose of Newfoundland Labrador by sale to the Government of Quebec, and ask whether the Newfoundland Government would be willing to discuss the subject with the Dominion authorities.

Your letter was recently submitted to, and considered by Committee of Council here, and in reply I am directed to assure you that the Newfoundland



Government would be willing to give serious consideration to any reasonable proposals the Government of Quebec or the Dominion authorities may desire to make in reference to this important subject, either by direct negotiations with the Government of Quebec, the Dominion authorities, or their duly accredited agent.

I have etc.

A. BARNES

890.

*Le Premier ministre au premier ministre de Terre-Neuve*  
*Prime Minister to Prime Minister of Newfoundland*

Ottawa, March 7, 1930

My dear Sir Richard,

In accordance with the understanding reached during your recent visit to Ottawa, I have had drawn up, in duplicate, a draft Agreement for the development of trade and the improvement of transportation between our two countries, along the lines agreed upon at the recent discussion between yourself and our Ministers of Finance and of Trade and Commerce. I trust that this Agreement, both copies of which are enclosed herewith, will meet with your complete approval, and that its conclusion will further facilitate and develop our mutual trade relations.

The Agreement, you will note, has been signed, in duplicate, by the Honourable Charles A. Dunning and the Honourable James Malcolm on behalf of the Government of Canada. It is contemplated that, if approved, it will be signed by you, in duplicate, on behalf of Newfoundland.

I should be glad if you would then return one copy of the Agreement for the archives of my Department. We shall then be in a position to bring the Agreement before Parliament, and, on approval being given, to proceed with the steps necessary to bring it into operation.

With kind regards,

Sincerely yours,

W. L. MACKENZIE KING

891.

*Le premier ministre de Terre-Neuve au Premier ministre*  
*Prime Minister of Newfoundland to Prime Minister*

St. John's, April 7, 1930

My dear Mr. Mackenzie King,

I have to acknowledge the receipt of your communication forwarding the draft memorandum respecting trade relationships between Canada and Newfoundland.

It is a matter of regret to me that the consideration of the memorandum has been delayed because of the severe illness of the Deputy Minister of Customs, who for many years has been the official in charge of Customs foreign relationships.

If there is no apparent probability of his early resumption of duty within the course of the next week, I shall deal with the matter personally.

Sincerely yours,

RICHARD SQUIRES

NOUVELLE-ZÉLANDE/NEW ZEALAND

892.

*Le Premier ministre au premier ministre de la Nouvelle-Zélande*

*Prime Minister to Prime Minister of New Zealand*

TELEGRAM 2

Ottawa, April 12, 1930

Following informal representations by the Canadian Government Trade Commissioner we now have to advise formally that on March 18th, 1930, the following resolution passed the House of Commons by a large majority: "That in the opinion of this house, order in council No. 1757, passed on the 26th day of September, 1925, respecting certain trade arrangements with the Dominion of New Zealand, should be superseded as soon as possible by a treaty with that dominion and that immediate steps should be taken to negotiate such treaty".

Accordingly, the Canadian Government desires to propose to the Government of New Zealand that the trade relations between the two countries be discussed as soon as may be convenient with a view to negotiating a direct Trade Agreement. In this connection it is recalled that in 1928 the Government of New Zealand expressed its desire to secure a separate customs treaty with Canada in lieu of being dependent on the Order-in-Council giving New Zealand the benefit of the Australian treaty. The Canadian Government trusts, therefore, that its proposal will meet with the complete approval of the Government of New Zealand and is confident that full and direct discussion will reveal the mutual advantages of a direct Trade Agreement and will result in the conclusion of a permanent and mutually beneficial arrangement. It is suggested that representatives of the two Governments meet in Ottawa in August or September for the purpose of negotiating a direct Trade Agreement. If this be not convenient, the Canadian Government would be willing to take part in negotiations in London at the time of the meeting of the forthcoming Imperial Economic Conference.

Canada appreciates the value of the New Zealand market and the friendly attitude manifested toward Canadian products. While the Canadian Government cannot extend to New Zealand, beyond six months from this date, the

benefits of the Trade Agreement with Australia (which, because of recent developments in Australia giving rise to unsettled conditions of trade, etc., may itself require readjustment,) it will be prepared to continue to extend to New Zealand products, pending the completion of the direct Trade Agreement the benefit of its British Preferential Tariff in return for the continued extension to Canadian products of the British Preferential Tariff of New Zealand.

W. L. MACKENZIE KING

893.

*Le premier ministre de la Nouvelle-Zélande au Premier ministre*  
*Prime Minister of New Zealand to Prime Minister*

TELEGRAM

Wellington, May 7, 1930

Your telegram of 12th April. The New Zealand Government will be happy to adopt suggestion of the Canadian Government that discussion on trade relations between the two Dominions should be initiated as soon as may be convenient with a view to negotiation of a direct Trade Agreement. The New Zealand Government fully appreciate friendly attitude adopted by Canada towards New Zealand, but note with deep regret that the Canadian Government have publicly announced themselves as unable to continue extension to New Zealand of benefits of Trade Agreement between Canada and Australia beyond six months from your telegram of 12th April, and this irrespective apparently of continuation or otherwise of Agreement with Australia, and irrespective apparently of possibility or otherwise of negotiating and implementing a direct Trade Agreement before the expiry of that period.

It will be within the knowledge of the Canadian Government that in the year 1929 the export of butter from New Zealand to Canada constituted 80% of New Zealand's total export trade to Canada, and New Zealand Government cannot view with equanimity a heavy impost on that product and indeed its probable relegation to a rate of duty less favourable than that granted by Canada to another Dominion.

The New Zealand Government must call attention to the fact that although since 1925 the value of New Zealand exports to Canada (chiefly butter) has increased by approximately £2,000,000, New Zealand nevertheless still has an adverse trade balance with Canada which alteration now proposed by Canadian Government would doubtless considerably increase. Again the New Zealand Government estimates duty concessions granted during 1929 by New Zealand to Canada amounted in value to approximately £1,000,000, while concessions granted by Canada to New Zealand amounted in value to approximately £300,000. It will be noted also that concessions granted by New Zealand on motor cars and accessories alone are in value more than double total concessions granted by Canada to New Zealand, these figures in each case represent difference between the general tariff rate and rate actually charged.

In the light of above considerations New Zealand Government are confident that they are expressing a point of view that will be universally endorsed by the people of this Dominion and feel bound to make the following alternative suggestions to the Canadian Government:

(i) That Canadian Government agree to enter into immediate conversations (either at Ottawa or at Wellington) in order that direct Trade Agreement contemplated may be implemented by legislation during the forthcoming Session of the New Zealand Parliament so as to come into operation before the 12th October next, or,

(ii) That the Canadian Government agree to extend present concession on New Zealand butter until such time as the contemplated Trade Agreement can be implemented by legislation after negotiations in London at the time of forthcoming Imperial Economic Conference, the New Zealand Government would prefer in principle that conversations suggested by the Canadian Government should take place in London immediately following conclusion of Imperial Economic Conference.

The New Zealand Government sincerely hopes that the Canadian Government will find it possible to adopt one of these two suggestions (of which they prefer second). Should this, however, be found to be impracticable, the New Zealand Government must in friendliest manner advise the Canadian Government that public opinion here would, in their judgment, render exceedingly difficult the consideration of any further tariff concession to Canadian products (for example, timber), and might gravely jeopardize existing favourable treatment granted by New Zealand to certain Canadian products (for example, motor cars).

The New Zealand Government would appreciate an intimation of further views of Canadian Government as soon as possible.

Though New Zealand Government do not propose publishing text of this telegram they will feel obliged, having regard to wide interest on the subject here, to make known their general attitude at an early date.

WARD

894.

*Le secrétaire d'État aux Affaires extérieures au premier ministre  
de la Nouvelle-Zélande*

*Secretary of State for External Affairs to Prime Minister  
of New Zealand*

TELEGRAM 5

Ottawa, June 23, 1930

Your telegram June 19th and Sir Joseph Ward's telegram of May 7th respecting negotiation of direct Trade Agreement between Canada and New Zealand.

The Canadian Government notes with pleasure that the Government of New Zealand will be happy to concur in the suggestion that a discussion on

trade relations between the two Dominions should be initiated as soon as may be convenient with a view to the negotiation of a direct trade agreement. The views expressed and the alternative suggestions advanced by your Government have received careful consideration here. Advantage has also been taken of the presence in Canada of the Australian Minister of Trade and Customs to discuss the readjustment of our trade relations with that Dominion.

Some days prior to the receipt of Sir Joseph Ward's telegram the Government announced that a General Election would be held during the coming summer. Parliament has since been dissolved and the General Election will be held July 28th. In the circumstances it is felt that the interests of the trade of both Dominions would best be served by negotiations for a direct trade agreement as early as possible after the election. It is suggested, therefore, that it would be convenient if the New Zealand delegates to the Imperial Conference could arrange to travel to London via Canada, and could be authorized to conduct negotiations with representatives of the Canadian Government at Ottawa for the conclusion of a direct trade agreement. It is hoped that such a Conference can be arranged at Ottawa for the middle of August, or, at the latest, early in September, whichever date would best suit the convenience of the New Zealand delegates.

895.

*Le premier ministre de la Nouvelle-Zélande au Premier ministre*  
*Prime Minister of New Zealand to Prime Minister*

TELEGRAM

Wellington, July 10, 1930

CONFIDENTIAL. Your telegram of the 23rd June respecting the proposed Trade Agreement between Canada and New Zealand. Owing to current Session of New Zealand Parliament and to my contemplated departure for the Imperial Conference towards the end of August, it will not be possible for a New Zealand Minister to make a special visit to Canada at the middle of August or the beginning of September nor will it be possible for me to remain in Ottawa for more than a day or two on my way to the Conference. It is a matter of sincere regret to us, therefore, that the Canadian Government have not found it possible to agree to initiation of negotiations at an earlier date. I am arranging, however, for Dr. G. Craig, Comptroller of New Zealand Customs Department, to leave for Canada via San Francisco on the 12th August, and I hope that he will be able to enter upon discussions with appropriate Canadian officials and to carry matters as far as possible before my own arrival in Canada via Vancouver on or about 12th September. I anticipate being able to remain in Ottawa for not more than two days and though it is not impossible that negotiations may have been carried to such a stage that agreement can be effected during that period, this would seem to be improbable, and it is exceedingly unlikely that New Zealand Parliament will, during its present Session, be in a position to pass legislation implementing any Agreement that may be arrived at.



The New Zealand Government are still not without hope that the Canadian Government will find it possible to extend present concession on New Zealand butter until a Trade Agreement can be made between the two Dominions and implemented by legislation here during 1931 Session of New Zealand Parliament. If, however, this is found to be impracticable then it is urged upon us that effect of action indicated in your telegram of the 12th April last is to impose on New Zealand butter as from the 12th October the Canadian general tariff rates in force on the former date and that immediate action should be taken here in this connection. The New Zealand Government are (reluctant?) to take any steps which would have effect of restricting trade between the two Dominions but I should wish you to know that in strictest confidence public opinion here will force us as from the 1st August next to place Canadian motor cars on present New Zealand general tariff unless a definite assurance can be given by the Canadian Government that the existing rates on New Zealand butter will be continued pending conclusion of proposed Trade Agreement. It is with great reluctance that we find ourselves forced to take this step and we do not, of course, exclude possibility of readjustment during forthcoming negotiations. The Canadian Government will recognize that even when this step has been taken the tariff concessions granted by New Zealand to Canadian products will be at least equal to tariff concessions granted by Canada to New Zealand products on basis of present Canadian rate on New Zealand butter namely one cent.

FORBES

896.

*Le Premier ministre au premier ministre de la Nouvelle-Zélande*  
*Prime Minister to Prime Minister of New Zealand*

TELEGRAM 8

Ottawa, July 30, 1930

CONFIDENTIAL. Your confidential telegram July 22nd received. You will doubtless have learned from press cables that in the general election held on Monday the Government met with defeat. I have advised the Governor General to send for the Honourable R. B. Bennett, Leader of the Opposition, who will form an administration within a few days. The views of the new administration will no doubt be communicated to your Government at the earliest possible moment.

I may say that one of the main causes for the defeat of the Government was the criticism of the extension of the Australian Trade Agreement to New Zealand particularly with reference to the importation of butter. I should also like to emphasize that even after the extension of the Australian Trade Agreement to New Zealand ceases to operate New Zealand products will continue to receive the full benefit of our British Preferential Tariff and that all that we have asked from New Zealand pending the negotiation of a direct agreement has been the extension to Canadian products of its full British

Preferential Tariff. I am sure that you will agree with me that it would be to the interest of both countries to defer action along the lines suggested in your telegram of 10th July until you have had an opportunity of taking up the question with the new Government.

MACKENZIE KING

897.

*Le premier ministre de la Nouvelle-Zélande au secrétaire d'État  
aux Affaires extérieures*

*Prime Minister of New Zealand to Secretary of State  
for External Affairs*

TELEGRAM

Wellington, July 31, 1930

CONFIDENTIAL. In view of considerations set out in your telegram of the 30th July, the New Zealand Government agree to defer action proposed in my telegram of the 10th July, but in the absence of an intimation that the Canadian Government can find it possible to extend the present tariff rates on New Zealand butter (namely one cent a pound) until a direct Trade Agreement between the two Dominions can be implemented, we shall be compelled to take this action on the 14th August next. We do not now propose that Comptroller of Customs should proceed to Canada on the 12th August but he will leave New Zealand with me on the 26th August. If therefore the Canadian Government still desire to enter into negotiations for a direct Trade Agreement, I am hopeful that some progress could be made during the two days which I contemplate will be at my disposal in Ottawa, and if necessary, I could arrange for the Comptroller of Customs to remain in Ottawa for a short period to continue any necessary conversations. As an alternative the negotiations could of course be conducted entirely in London during the Imperial Conference.

FORBES

898.

*Le secrétaire d'État aux Affaires extérieures au premier ministre  
de la Nouvelle-Zélande*

*Secretary of State for External Affairs to Prime Minister  
of New Zealand*

TELEGRAM 9

Ottawa, August 13, 1930

CONFIDENTIAL. Your telegram 31st July and preceding telegrams have been receiving the attention of the new Canadian Administration which has just taken office. The Canadian Government could not without fresh legislation provide for the continued extension of the Australian Agreement beyond October. In view, however, of the forthcoming Imperial Conference

and of the opportunities which will be afforded here and in London for personal discussion of the trade situation, we trust that your government will not decide to take the action proposed in your telegram. Aside from the extension on Canada's part of the Australian Agreement, the basis of trade arrangements between New Zealand and Canada which has long been established has been the reciprocal grant of the British preferential tariff of each country to the other and we hope that no breach will be made in this relationship without full opportunity for discussion. We shall have pleasure in entering into negotiations for a direct trade agreement and are glad to know that you are planning to go to London through Canada, which will give an opportunity for initiating the discussions. As our Parliament will be in session at the time of your visit, there will not be much opportunity of going into details, but we will be able to have a preliminary discussion here and go into details in London.

899.

*Le premier ministre de la Nouvelle-Zélande au Premier ministre*  
*Prime Minister of New Zealand to Prime Minister*

TELEGRAM

Wellington, August 21, 1930

CONFIDENTIAL. Your telegram of the 13th August. The New Zealand Government regret that the Canadian Government cannot extend present tariff rates on New Zealand butter until a direct Trade Agreement between the two Dominions can be brought into force. The position as represented here is that in 1923 and 1924, that is before extension of Australian Agreement to New Zealand, when duty on butter was three cents per pound, Canadian exports to New Zealand were over five times exports from New Zealand to Canada. During 1928 and 1929 New Zealand exports were three-fourths Canadian exports. As all benefits of Australian Trade Agreement will shortly be withdrawn resulting in imposition on New Zealand butter of Canadian General Tariff rates as at the 12th April, and as in addition countervailing duties have been imposed on a number of New Zealand products, exporters here view with grave concern the possibility that exports from New Zealand to Canada may be reduced below level of 1923 and 1924. New Zealand Government must point out that increase in New Zealand exports to Canada was made possible by extension of Australian Agreement to this Dominion and that since 1st October, 1925, the basis of the Trade Agreement between Canada and New Zealand has been the grant by the former to the latter of Agreement rates and otherwise of British Preferential Tariff rates and grant to Canada by New Zealand of British Preferential Tariff rates. Had Australian Agreement not been extended to New Zealand the benefits of New Zealand and British Preferential Tariff could not have been maintained on Canadian products. The New Zealand Government regret that they find

themselves unable longer to resist pressure to place Canadian motor vehicles and accessories on New Zealand General Tariff in force on 12th April which is less than General Tariff rates recently imposed by legislation granting increased preference on many lines. The Canadian Government will understand that New Zealand Government are being strongly urged to place other Canadian products upon General Tariff, but it is hoped course decided upon concerning motor vehicles will render possible a postponement of such action until negotiations take place. The New Zealand Government will, of course, be happy to replace Canadian motor vehicles on British Preferential Tariff if during Session of Canadian Parliament referred to in your telegram legislation is passed to maintain rate of one cent per pound on New Zealand butter until Trade Agreement can be made and implemented by legislation here.

FORBES

900.

*Le secrétaire d'État aux Affaires extérieures au premier ministre  
de la Nouvelle-Zélande*

*Secretary of State for External Affairs to Prime Minister  
of New Zealand*

TELEGRAM

Ottawa, August 22, 1930

IMMEDIATE. CONFIDENTIAL. Your telegram of August 21. We regret very much to learn that the Government of New Zealand has decided to place Canadian motor vehicles and accessories under New Zealand general tariff as in force on April 12. We had hoped that neither New Zealand nor Canada would make any change in the practice of each granting to the other the full benefits of the British preferential tariff, aside from whatever additional concessions might be made by both parties. It is particularly a matter for concern if the imposition of the general tariff rates on Canadian motor cars is to go into effect before an opportunity has been afforded for personal discussion, as suggested in my telegram of Aug. 13. May I point out that Canada gave six months' notice of the proposed abrogation of the extension of the Australian agreement, and that the one cent a pound rate upon New Zealand butter continues in full force until October 12. We hope, therefore, that the Government of New Zealand will find it possible to review its action and to provide that any increase in duties on Canadian motor vehicles and accessories may be deferred for six months or at least until October 12, when under the Order-in-Council passed by the late administration the increased rate on New Zealand butter will go into effect. It is hoped that in the course of your forthcoming visit there will be full opportunity for considering the trade relations of the two countries and obtaining a solution consistent with the cordial relations which have always existed between the two Dominions.

901.

*Le premier ministre de la Nouvelle-Zélande au Premier ministre*  
*Prime Minister of New Zealand to Prime Minister*

TELEGRAM

Wellington, August 25, 1930

Your telegram 22nd August. New Zealand Government regret necessity of increasing duty on Canadian motor vehicles which was unavoidable result of action taken by the Canadian Government last April changing basis of trade relations. New Zealand Government is anxious to increase trade between the two countries but do not consider British preferential tariff rates satisfactory unless trade results therefrom. Owing to conditions here impossible to give six months notice of increased duties which would result in abnormal increase of importations disturbing economic position. Increased duties apply only to goods exported from Canada on and after the 20th August. This will practically have result desired of postponing change until October. New Zealand Government is still willing to take action indicated in the last sentence of my telegram 21st August if Canadian Government will retain rate of one cent per pound on New Zealand butter until agreement made.<sup>1</sup>

FORBES

## NORVÈGE/NORWAY

902.

*Le consul général de Norvège au secrétaire d'État*  
*aux Affaires extérieures*

*Norwegian Consul General to Secretary of State for External Affairs*

Montreal, March 26, 1928

Sir,

I have the honour, by direction of my Government, to communicate the following to you:

Acting upon instructions from the Ministry of Foreign Affairs, Oslo, I had the honour to send you on March 12th, 1925, a note concerning certain Arctic Islands discovered by Captain Otto Sverdrup, the leader of the Second Norwegian Polar Expedition on board the *Fram*, 1898-1902. These Islands, mapped by Captain Sverdrup and his companions, include i.a. Axel Heibergs Island, Ellef Ringnes Island, Amund Ringnes Island, and King Christians

<sup>1</sup> Un accord commercial devait par la suite être signé entre le Canada et la Nouvelle-Zélande le 23 avril 1932. Ces documents paraîtront dans le Volume 5.

<sup>1</sup> The Trade Agreement between Canada and New Zealand was eventually signed on April 23, 1932. The relevant documents will be printed in Volume 5.



Island, and were taken possession of by Captain Sverdrup in the name of His Majesty the King of Norway. It had, however, come to the notice of my Government that in certain publications issued by Canadian Government Authorities, these Islands were referred to as Canadian. My Government, therefore, desired to be informed whether the Dominion Government contend that these Islands belonged to the Dominion, and, if so, on what basis such claim of sovereignty was founded.

In the absence of any reply from you in regard to this matter, I ventured to draw your attention to the matter in a note dated February 6th, 1926, and again in a note of September 27th, 1926. The Acting Under-Secretary of State for External Affairs then advised me in a letter dated October 9th, 1926, that the matter would be taken up when the Prime Minister returned from England, and a statement furnished to me. So far I have not, however, received any such statement, neither have I received any reply to my subsequent note to you of April 27th, 1927, relative to the matter, which I also mentioned during a conversation I had with Dr. Skelton at Ottawa on January 25th, 1928.

I am now instructed by my Government to inform you that they reserve to Norway all rights coming to my country under International Law in connection with the said areas.

I have etc.

LUDWIG AUBERT

903.

*Le secrétaire d'État aux Affaires extérieures au  
consul général de Norvège*

*Secretary of State for External Affairs to Norwegian Consul General*

Ottawa, December 18, 1928

Sir,

With further reference to your letter of June 12th enquiring whether the Canadian Government would be prepared to conclude an arrangement with the Norwegian Government regarding the reciprocal shipping Income Tax exemption, I have the honour to advise that the Canadian Government is now prepared to open negotiations with your Government with a view to concluding an Agreement.

I have etc.

O. D. SKELTON

for the Secretary of State  
for External Affairs

904.

*Le sous-secrétaire d'État aux Affaires extérieures  
au consul général de Norvège*

*Under-Secretary of State for External Affairs to Norwegian Consul General*

Ottawa, April 19, 1929

Sir,

With reference to your letter of February 28th, in which you submit for the consideration of this Government a draft Agreement regarding reciprocal exemption of shipping profits from income tax, I have the honour to inform you that this Government is willing to facilitate an arrangement with the Government of Norway for a reciprocal exemption from income tax of income arising in their respective countries from the operation therein of ships owned or controlled by and used in the business of persons and corporations resident in the country of the other. It is suggested, however, that while the Canadian Government is in general agreement with the substance of the draft Agreement submitted in your letter under reference, it might be desirable, as a matter of convenience, to effect the Agreement in the form of an Exchange of Notes. Accordingly, I have the honour to submit for your consideration the following draft Agreement<sup>1</sup>. . . .

If an undertaking on this basis meets with the approval of your Government this Government will be pleased to conclude a definitive Agreement by an Exchange of Notes.

I have etc.

O. D. SKELTON

905.

*O. Sverdrup au Premier ministre*

*O. Sverdrup to Prime Minister*

Oslo, April 22, 1929

Sir,

I have the honour to state that it has been brought to my notice that the Canadian Government are desirous of obtaining full and undisputed possession of all the territories and islands, discovered, explored and mapped by me in the region between 76° and 81° 40' North latitude and 76° and 107° West longitude, an area of about 100.000 square miles during the Norwegian second Arctic expedition from 1898 to 1902 in the polar ship *Fram* under my command.

I venture, however, to point out that the Norwegian Government have laid claim to the sovereign rights of the territories above-mentioned, but

<sup>1</sup> Le projet était essentiellement le même que celui publié sous le n° 753.

<sup>1</sup> The draft text was essentially that contained in Document 753.

I would state that as a result of negotiations with the Norwegian Government these rights will be definitely relinquished should I at any time so desire. As no claim in this connection can be made other than by myself it follows that Canada will enter into full and undisputed possession the moment my claim is dropped, in which case, I am precluded from seeking compensation from the Norwegian Government for my services rendered in connection with the expedition.

As soon as the amount of compensation has been agreed upon I bind myself to obtain by telegraph a satisfactory declaration from the Norwegian Government that the Kingdom of Norway waives all claim to the territories aforesaid.

I therefore venture to approach you in this matter of compensation and to inform you that as circumstances prevent my appearance in person I have, with the approval of the Norwegian Foreign Department entrusted my case to the care of Mr. Eivind Bordewick, General Agent for Norway for the Canadian Pacific Railway Company, who holds my power of attorney to negotiate on my behalf and to decide upon and to receive the amount of compensation necessary to settle the matter finally.

In connection herewith I beg to refer to the following reports, statements and scientific books, which Mr. Bordewick will hand over to you, viz:

1. Summary of Reports of my explorations of the said lands during the period 1898 to 1902.

2. My own Statement, headed "The natural resources of the Sverdrup Islands and the surrounding waters. Measures to prevent the extermination of animal life—to prevent a repetition of the fate which has overtaken most other arctic regions. Navigation facilities in these islands.

3. Report of the second Norwegian Arctic Expedition in the "Fram" in English—36 treaties—4 volumes, issued during the period 1904 to 1919 by the Society of Science in Oslo, Norway.

4. Geogr. Journal 1903. Vol. 22 London.

5. New Land—Four Years in the Arctic regions together with numerous maps, by Commander Otto Sverdrup, in 2 volumes.

I venture to suggest that a study of the information specified above and a reference to the many favourable opinions of eminent men, competent to speak of my work, will give a true idea of the scope, importance and value of the work done by my Expedition during the years 1898 to 1902.

When the matter has been finally settled, I shall be happy to place my personal knowledge and experience at the disposal of the Canadian Government for purposes of further developments.

The satisfactory accomplishment of the discovery of these lands and the thorough exploration and mapping of an hitherto white spot on the surface of the globe was entirely due to the very modern equipment of my expedition and, not least, to the happy choice of its gallant members, scientists, officers and crew. I consider it a great privilege and honour to have been

the medium of making these discoveries and of being able to continue the work begun years ago by great explorers like Inglefield, Nares, Belcher and Greely.

I beg to add that the four years exploration of the so called Sverdrup Islands has taken the prime of the strength of the power of my life, and as this struggle and work hitherto has not given me any pecuniary return, I venture to hope that your Government will meet my wishes in connection with the cession of these lands to Canada, on the condition that a suitable compensation is paid to me.

I therefore trust that you will receive my representative Mr. Bordewick, in a friendly way, and that my case will meet with your sympathetic and practical consideration.

I have etc.

OTTO SVERDRUP

906.

*Le consul général de Norvège au sous-secrétaire d'État  
aux Affaires extérieures*

*Norwegian Consul General to Under-Secretary of State for External Affairs*

Montreal, April 29, 1929

Sir,

With further reference to your letter of the 19th instant and my reply of the 20th instant, I have the honour to inform you that I have today from the Norwegian Minister of Foreign Affairs received a cablegram, in which he authorizes me to exchange notes with the Canadian Secretary of State for External Affairs, according to your proposal, regarding reciprocal exemption of shipping profits from Income Tax.

I am thankful for your offer by telephone today to send me the text of the notes, and according to our verbal arrangement, I am prepared to go to Ottawa on Wednesday night and appear in your office on Thursday morning in order to carry out the exchange of the notes.

I have etc.

LUDWIG AUBERT

907.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

DESPATCH 308

Downing Street, May 30, 1929

CONFIDENTIAL

Sir,

With reference to my despatch No. 253 of the 29th June, 1928, I have the honour to transmit, for the information of His Majesty's Government

in Canada, the accompanying copy of a despatch from His Majesty's Minister at Oslo, reporting on a recent debate in the Storting, in which reference was made to negotiations between Canada and Norway regarding the Otto Sverdrup Islands.

2. In view of the importance attaching to these discussions and their possible effect on Norwegian claims in other parts of the world His Majesty's Government in the United Kingdom would greatly appreciate any information as to the progress of the discussions and the attitude adopted by His Majesty's Government in Canada in the matter. In this connection I would invite reference to my Confidential despatch No. 307 of today's date regarding recent developments concerning Franz Joseph Land.

I have etc.

L. S. AMERY

908.

*Mémoire du sous-secrétaire d'État aux Affaires extérieures  
au Premier ministre*

*Memorandum from Under-Secretary of State for External Affairs  
to Prime Minister*

Ottawa, June 3, 1929

#### NORWEGIAN PROPOSALS REGARDING ARCTIC ISLANDS

Captain Otto Sverdrup, the leader of the second Norwegian Polar Expedition on board the *Fram*, 1898-1902, discovered and mapped certain Arctic Islands (Axel Heibergs Islands, Ringnes Islands, etc.), and took possession of them in the name of His Majesty the King of Norway. (See attached chart). The Canadian Government has repeatedly stated of recent years that it considers all the territory north of the Canadian mainland, between the 60th and 141st meridians of longitude, to be part of Canadian territory. By Imperial Order-in-Council in 1880 the British Government transferred to Canada all British territories and possessions in the Arctic. For many years the Canadian Government has been administering the northern territories of the Dominion, sending out annual expeditions, maintaining Royal Canadian Mounted Police posts, assisting the Eskimo, collecting customs, etc. The particular islands in question were first included in the Royal Canadian Mounted Police patrols two years ago.

The attitude of the Norwegian Government in regard to its claims to these islands has been somewhat undecided. At intervals for the past three or four years the Norwegian Consul-General took up the question of Canadian jurisdiction. No definite reply was made pending an attempt to strengthen our title by further Royal Canadian Mounted Police administration. Last year the Norwegian Government informed us that they "reserved to Norway all rights under international law in connection with the said areas".



Recently the Liberal Government in Norway considered the matter and indicated its readiness to relinquish any title they might have to these islands in favour of Canada, if the Canadian Government would reimburse Captain Sverdrup for the expenses of his expedition. The Government is in the minority in the Norwegian Parliament. The Labour Party, which is the strongest, was averse to cession, at least pending reference of the matter to the League of Nations.

I have seen Mr. Bordewick, who has been appointed Captain Sverdrup's representative, on three occasions, and told him that the Canadian Government of course considered that this territory was already in its possession, and that any discussion of the matter would be without prejudice to that understanding. We also saw Mr. Stewart, who was very skeptical of the possibility of a bargain such as was suggested. We took the matter up at the meeting of the Northern Advisory Committee last week, consisting of representatives of the Interior, Royal Canadian Mounted Police, Justice, and External Affairs, and a sub-committee later interviewed Mr. Bordewick. It was decided to prepare a report for the consideration of the Government, stating fully the respective grounds of the claims of Norway and of Canada, and the proposals of Commander Sverdrup. It was felt by the Committee to be desirable that the Government should first decide whether it wished to consider the Norwegian proposal, before discussing details.

I gathered from Mr. Bordewick that it was desired to secure reimbursement for the whole cost of the Sverdrup expedition, which was something over two hundred thousand dollars. The Canadian Government spends something over one hundred thousand dollars each year on expeditions to this northern region.

Mr. Bordewick wishes to see you, chiefly, I gather, to explain the political situation in Norway, which might result in the present proposal lapsing. I told him that it would be difficult to secure a definite decision on the matter from the Government for some time to come, but he wishes to present his case direct.

In our interviews with Mr. Bordewick we have of course stated that until the Government had given the matter full consideration, it would be impossible to forecast what answer would be returned.

[O. D. SKELTON]

909.

*E. Bordewick au sous-secrétaire d'État aux Affaires extérieures*

*E. Bordewick to Under-Secretary of State for External Affairs*

Ottawa, June 4, 1929

Sir,

Your Secretary has telephoned me that you have arranged for me to see the Premier either today or tomorrow.

With reference to the pleasant meeting with the Advisory Committee on Friday, I take the liberty of sending you herewith a memo outlining, in a few words, the matter I wish to discuss briefly with the Premier and your good self.

Your suggestion at the meeting on Friday, to arrange a meeting in London, England, in the early Fall in order to arrive at a final settlement of the Sverdrup case, seems to me the only thing which can be done in order to rush the case before there might be any change of Cabinet in Norway.

In this case, however, I am sure you will appreciate that, as authorized representative for Commander Sverdrup, I should not return to Norway now, empty handed.

It is, therefore, that I venture to approach the Premier and you, Sir, with a view to obtaining a statement as outlined in the enclosed memo.

Sincerely yours,

EIVIND BORDEWICK

[PIÈCE JOINTE/ENCLOSURE]

*Mémorandum*

*Memorandum*

Ottawa, June 4, 1929

#### REGARDING SVERDRUP CASE.

(1) An acknowledgement of Commander Sverdrup's Explorations, Mapping, and Work, in relation to the Sverdrup Islands, as of value to the Dominion of Canada, stating that the Dominion of Canada is willing to pay the said Commander Sverdrup a justified compensation or reward, as soon as the Advisory Committee may have completed their work and as soon as the Cabinet may have considered the reward to pay.

(2) The final settlement to take place in London, England during the early fall, not later than October 1st, 1929 by an Authorized Representative of the Government of the Dominion of Canada, and Commander Sverdrup, and myself.

(3) The basis for this settlement is naturally Norway's full relinquishment of any claim of Sovereignty [*sic*] to the Sverdrup Islands, to be given officially at the time of settlement in London, England.

EIVIND BORDEWICK

910.

*Le sous-secrétaire d'État aux Affaires extérieures à E. Bordewick*  
*Under-Secretary of State for External Affairs to E. Bordewick*

Ottawa, June 5, 1929

My dear Mr. Bordewick,

I am in receipt of your letter of June 4th, with reference to the interview with the Prime Minister which is being arranged.

I understand that the memorandum contained therein represents the proposals which you wish to make to the Prime Minister.

It is, of course, understood that the question of whether or not the Dominion of Canada could accept the proposal to pay compensation to Commander Sverdrup has not yet received the consideration of the Government.

I may also make it clear that the suggestion made in the course of the committee meeting the other day as to further discussion in London merely contemplated conveying information as to whether the Canadian Government had made any decision on the matter. No proposal was made that "a final settlement should take place in London by an authorized representative of the Government of the Dominion of Canada, and Commander Sverdrup and yourself", nor could any such proposal be made at present in view of the fact that no decision on the principle of the proposal has been made.

Yours sincerely,

O. D. SKELTON

911.

*Le secrétaire d'État aux Affaires extérieures à E. Bordewick*  
*Secretary of State for External Affairs to E. Bordewick*

Ottawa, June 6, 1929

Dear Sir,

I have read with care the letters which you presented to me recently from Dr. Nansen (April 20th, 1929) and Commander Sverdrup (April 22nd, 1929), regarding the explorations carried on by Commander Sverdrup in the Canadian Arctic Archipelago in the years 1898 to 1902. I have also noted the full and able presentation which you have given in the course of personal interviews.

It was a pleasure to receive the assurances of the good will toward Canada felt by the Government and the people in Norway. We are always glad to receive visitors from a country with such splendid traditions and with so many interests and ideals in common with our own as Norway.

The varied and successful work of Commander Otto Sverdrup in the furtherance of Arctic exploration, from the days when he accompanied Dr. Nansen in his journey across Greenland to his relief expeditions in the Arctic within the past few years, and not least his explorations in the Axel Heiberg area, are familiar to Canadians, and his fine personality has given him a place in their regard, with Fridtjof Nansen and Raold Amundsen, in the distinguished roll of heroic adventurers whom Norway has sent forth.

The question which has been raised as to whether the Canadian Government could recommend a grant to Commander Sverdrup in recognition of the achievements of the *Fram* expedition in 1898-1902 will be given most careful consideration by the Minister of the Interior, our other colleagues

and myself. The proposal has been referred to the Northern Advisory Committee for preliminary enquiry, and, following its report, will be taken up by the Government at the first convenient opportunity.

May I ask you to convey to Dr. Nansen and to Commander Sverdrup the assurance of my highest esteem and my kindest regard?

Yours sincerely,

W. L. MACKENZIE KING

912.

*Le sous-secrétaire d'État aux Affaires extérieures à E. Bordewick*

*Under-Secretary of State for External Affairs to E. Bordewick*

Ottawa, June 6, 1929

My dear Mr. Bordewick,

You will note that the Prime Minister's letter of this date regarding Commander Sverdrup's proposal, makes no reference to any of the political considerations involved, nor to the unofficial intimations which you have conveyed of the friendly attitude which I understand the Government of Norway is prepared to take regarding the islands in question. It has been assumed that it is the personal aspect of the proposal with which you are primarily concerned.

Yours sincerely,

O. D. SKELTON

913.

*Le secrétaire d'État aux Affaires extérieures au Haut commissaire*

*Secretary of State for External Affairs to High Commissioner*

TELEGRAM 102

Ottawa, October 14, 1929

Following for Skelton. Begins. I think it well to let you know that Eivind Bordewick, Agent at Oslo of Canadian Pacific Railway Company for Norway, has written asking as to prospects for meeting with Canadian representative to discuss question of compensation to Commander Sverdrup. Consideration of proposal by Government was promised after report from Northern Advisory Committee. Cory, whom I have consulted, says additional information was to be obtained by you as Chairman of Sub-Committee from British authorities in London. Meantime I am not answering Bordewick's letter. Ends.

914.

*Le Haut commissaire au secrétaire d'État aux Affaires extérieures*  
*High Commissioner to Secretary of State for External Affairs*

TELEGRAM 98

London, October 30, 1929

Following from Skelton. Begins. Your telegram No. 102. With further reference to proposal for compensation to Commander Sverdrup, I have discussed the question with representatives of Dominions and Foreign Offices and other departments interested. Government here would be prepared to cooperate by withdrawing in favour of Norway its claim to Jan Mayen Island, originally discovered by Hudson but recently occupied by Norwegians and formally annexed by Norway this summer. While this might be of some value, British claim is shadowy. After discussion here I am still of the opinion of Arctic Committee that it would be advisable in view of important Canadian interests concerned to offer some compensation. If Prime Minister and Minister of the Interior approve I should like to be advised what amount would be considered. I could then discuss with Bordewick here and report proposal for approval. Please bring to attention of Northern Advisory Committee. Ends.

915.

*Le Haut commissaire au secrétaire d'État aux Affaires extérieures*  
*High Commissioner to Secretary of State for External Affairs*

TELEGRAM 108

London, November 23, 1929

Following from Skelton. Begins. Our telegram No. 98 regarding Sverdrup claim. Norwegian Prime Minister, in speech on Norwegian policy in Polar Region, 10th November, insisted on special interest in connection with Arctic and Antarctic and objected to doctrine of Polar Sector put forward by Canada, Australia, Soviet Union and other countries. I should be glad to receive any answer as soon as possible next week to my telegram No. 98 as British Government wishes to take definite action regarding Jan Mayen Island and I have promised to discuss question with Bordewick here before returning. Ends.

916.

*Le secrétaire d'État aux Affaires extérieures au Haut commissaire*  
*Secretary of State for External Affairs to High Commissioner*

TELEGRAM 125

Ottawa, November 30, 1929

Following for Skelton. Begins. Your telegram 29th, Sverdrup claim, Government prepared to consider compensation to Sverdrup amounting to \$25,000.00 and you might take up negotiations on this basis with Bordewick as you suggest and report proposal for approval. Ends.



917.

*E. Bordewick au Premier ministre**E. Bordewick to Prime Minister*

Oslo, December 13, 1929

Sir,

With reference to Commander Otto Sverdrup's letter of April 22nd. last relative to his claim for compensation for the discovery and exploration of the Sverdrup Islands, I have the honour to state that at the telegraphic request of Doctor O. D. Skelton I attended in Paris on the 5th. inst. together with Commander Sverdrup, to discuss the question concerned.

Meetings were held on December 5th. and December 6th. and were attended by Doctor O. D. Skelton, Minister Leponte [*sic*], Commander Otto Sverdrup and myself.

At the first meeting Doctor Skelton put forward the view, that, as the Canadian Government had been advised by the British Foreign Office that with regard to the question of the sovereign rights of Norway, the Norwegian Minister in London had expressed before Lord Cushendun Norway's willingness to relinquish her rights as compensation for Bouvet Island, Commander Sverdrup's claim should be reduced to one for reward for personal services rendered. Doctor Skelton therefore made an offer of \$2.400—per annum for life, or \$25.000.—once and for all.

This attitude was new to us and did not agree with the official Norwegian instructions and information we had received. Accordingly on my return to Oslo I approached the Norwegian Foreign Office on the subject, and am now informed that, the Norwegian Minister in London neither had been instructed to or had been authorized to relinquish Norway's sovereign rights to the Sverdrup Islands in the negotiations in regard to the matter of the Bouvet Island, further that there had been no discussion at all regarding the relinquishment of these sovereign rights in compensation for the Bouvet Island. It is further re-affirmed that the present Norwegian Government still is willing to relinquish the sovereign rights of the Sverdrup Islands as stated in par. 2 in Commander Sverdrup's letter under reference. Further, that the matter of Bouvet Island was settled as an Act of Grace on the part of Great Britain and that the question of sovereign rights and compensation does not, therefore, arise at all. Moreover, settlement on these grounds has been strongly emphasized by Great Britain. With regard to the question of "Occupation" I beg to call attention to, that Commander Sverdrup not only discovered but also explored, mapped and named the islands and occupied the lands in the name of the Kingdom of Norway as per declarations deposited in cairns at two places of these islands.

I understand that the Norwegian Minister in Paris, Mr. Wedel Jarlsberg, in a private conversation with Minister Leponte and Doctor Skelton suggested a sum of \$100.000—as a suitable and modest minimum personal reward. If, as stated by Doctor Skelton, the Canadian Government offer to

treat Commander Sverdrup in the same manner as they have treated Commander Bernier, it would seem that the sum of \$100,000.—suggested would be appropriate, as, calculating the pension of \$2,400.—per annum as payable from 1902 (the year of Commander Sverdrup's return) to the present time, and estimating Commander Sverdrup's life at 10 more years, the figure arrived at would be about \$100,000.—without interest. I am authorized to add that Commander Sverdrup would be glad to accept this sum as his personal reward.

There remains the question of the outlays of the Norwegian national expedition. These, as you are aware, according to the attached specified list, amounted to \$200,900.—In this connection, I would refer to Minister Leponte's enquiry and to my reply thereto, during our second meeting in Paris, when Minister Leponte, Doctor Skelton, Commander Sverdrup and myself were present. Minister Leponte inquired: "It would be of interest to know what the value in Dollars and Cents of these explorations, the mapping of the lands &c. would be for Canada". To this I replied: "Provided Canada would, sooner or later have had to have undertaken a similar exploration of these lands, and presuming that this had not already been completed by Commander Sverdrup as early as during the years 1898-1902, it is easy to find out what it would have cost Canada nowadays in dollars and cents. According to the specified list of expenses of the expedition, it appears that item 7, Wages paid by Sverdrup to his crew, consisting of a staff of 5 scientific men and 10 experienced navigators and men experienced in exploration in the Arctic, amounted to \$26,725. This means, simply, the astonishing small sum of about \$33.—per month per man for these 15 gallant explorers. Commander Sverdrup himself does not appear on this payroll, as he up to this moment has never received a cent for his work. May I ask you, Gentlemen, what the cost nowadays would be for a similar expedition. I think you will agree that the cost would be between three and five times as much. About the same comparison can be used in considering the other eight items of the expenditure relating to the cost of the Sverdrup Expedition, which as a matter of fact was equipped for fully 6 years. Only one item would, possibly, not be larger, viz. item 3, the Marine Insurance of the ship. Replying to the Minister's question I would therefore say, that the amount of \$200,900.—representing the expenditure of Commander Sverdrup's expedition is the very lowest estimate of the value these explorations would have for Canada, and, I may add, that nowadays such an expedition would cost not far from one million dollars. In this connection I beg to appeal to Commander Sverdrup himself, who is better posted than anybody else regarding these matters, whether I am correct or not". To this Commander Sverdrup simply replied: "The statement is correct to the point". I concluded with a strong appeal to the highest authority of Justice in Canada, Minister Leponte, as a member of the Canadian Cabinet, to induce his Government to pay Commander Sverdrup a reward in accordance with a correct valuation of his achievement.

I consider it reasonable that the Canadian Government should refund the cost of the expedition as it was equipped and sent out as a national enter-

prise with the idea of securing advantages for the Norwegian nation. In the event of Canada securing the sovereign rights, the advantages accrue to Canada and not to Norway.

I would also draw your attention to the fact that, when Commander Sverdrup in April last acquired the consent of the Norwegian Government to relinquish the sovereign rights of the Sverdrup Islands to Canada, this was also due to the statement given by Commander Sverdrup that he, in addition to a personal reward, also would claim a refund of the expenditure incurred by the expedition, and paid for, partly by him, and partly by Commander Sverdrup's numerous friends and admirers among the Norwegian people.

In conclusion I venture to put before you the observations stated above and the request that you will be able to see your way to treat this application from Commander Sverdrup, representing a friendly nation, with sympathy and generosity.

I have etc.

EIVIND BORDEWICK

918.

*Le secrétaire, Haut commissariat britannique, au sous-secrétaire d'État  
aux Affaires extérieures*

*Secretary, Office of British High Commissioner, to Under-Secretary of State  
for External Affairs*

URGENT AND CONFIDENTIAL

Ottawa, January 7, 1930

My dear Doctor,

Since my letter of the 3rd January was written we have received an urgent telegram stating that recent developments in the Antarctic have made it essential to arrive at a general settlement with the Norwegian Government on outstanding questions connected with their claims in the Antarctic and Arctic. An inter-departmental committee is, therefore, to meet in London tomorrow afternoon, the 8th January, which, owing to the difference in time is equivalent to ten o'clock tomorrow morning in Canada. The Dominions Office think it would be most unsatisfactory both from the point of view of Canada and Great Britain if the Otto Sverdrup question had to be left out of the discussions and dealt with separately at a later date. The Secretary of State has therefore asked Sir William Clark to do all in his power to obtain a reply to the questions set out in my letter of the 3rd January which may be summarised as follows:

(i) Does the Canadian Government agree to an early attempt being made to secure the abandonment of the Norwegian claims to the Sverdrup Islands in return for an acknowledgement of Norwegian sovereignty over Jan Mayen Island (and perhaps also Peter I Island) and consideration of an *ex gratia* pecuniary grant to Sverdrup:

(ii) If so, what would be the amount of such an *ex gratia* payment?

Lord Passfield fully appreciates the difficulty of giving an answer within so short a time, but, as you will have seen in the papers, the Norwegian claims in the Antarctic have to be dealt with at once, and it might be easier to settle the Sverdrup question in conjunction with all the others than to negotiate a subsequent and separate settlement.

Yours sincerely,

R. H. HADOW

919.

*Le sous-secrétaire d'État aux Affaires extérieures au secrétaire,  
Haut commissariat britannique*

*Under-Secretary of State for External Affairs to Secretary,  
Office of British High Commissioner*

Ottawa, January 7, 1930

My dear Mr. Hadow,

Your letters of January 3rd and January 7th, regarding the Norwegian claim to the Sverdrup Islands, have been considered by the Northern Advisory Board and their recommendations have since been approved by the Ministers concerned.

We should therefore be obliged if you could inform the Secretary of State for Dominion Affairs that an interview was held in Paris on December 5th and 6th by Mr. Lapointe and myself with Commander Sverdrup and his representative Mr. Bordewick. The Norwegian Minister to France also made representations on Commander Sverdurup's behalf. They were informed that the Canadian Government was prepared to make a pecuniary grant to Commander Sverdrup in recognition of his services to scientific research in the Canadian Archipelago. The amount proposed, \$25,000 or a life annuity of \$2400, was not considered adequate by Commander Sverdrup. The matter has therefore been further reviewed since the return of Mr. Lapointe and myself to Canada.

In reply to the specific questions in your letter of the 7th January, we should be obliged if you could inform Lord Passfield (1) that the Canadian Government, while maintaining its claim to sovereignty over the whole of the Arctic Archipelago within the Canadian sector, and while not wishing to make any bargain which would involve an acknowledgement of Norwegian claims, is prepared to make *ex gratia* a pecuniary grant to Commander Sverdrup for his services to scientific research in the Arctic, including the delivery of original maps, records, diaries and other material in his possession, and on the understanding that he would be available for consultation if required. It is understood that simultaneously the Norwegian Government would be prepared to indicate its recognition of Canadian claims. It is agreed that such a solution would be further facilitated if simultaneously an acknowledgment were made of Norwegian sovereignty over Jan Mayen Island and



also over Peter First Island if that is considered advisable. (2) the *ex gratia* payment proposed, which is the final offer that can be made, is a cash payment of \$25,000 to Commander Sverdrup, together with a life annuity of \$2400, to begin April 1st, 1929.

It is desired to make clear that in the view of the Canadian Government the circumstances in the present case are unique and that this grant would not in any way constitute a precedent for claims from other explorers. Under present conditions the exploration and scientific study of the Canadian Archipelago is carried on and will be carried on in the future by the Canadian Government as incidental to its annual patrol and other administrative activities in this part of Canadian territory. It is therefore considered that there will not in future be the scope which existed in the past for research by special expeditions.

It is proposed to inform Commander Sverdrup of this offer. We should like to do this simultaneously with the discussion which will be held by the British Minister at Oslo with the Norwegian Government, if this is likely to take place very shortly. I should therefore like to be informed of the date when that discussion will likely take place.

Yours sincerely,

O. D. SKELTON

920.

*Le secrétaire, Haut commissariat britannique, au sous-secrétaire d'État  
aux Affaires extérieures*

*Secretary, Office of British High Commissioner, to Under-Secretary of State  
for External Affairs*

Ottawa, January 21, 1930

My dear Doctor,

In reply to your letter of the 7th January regarding the Norwegian claim to the Sverdrup Islands, the High Commissioner has been instructed to inform you that His Majesty's Minister at Oslo is to communicate by word of mouth to the Prime Minister of Norway on the 28th January the anxiety of His Majesty's Government in the United Kingdom to settle outstanding Arctic questions between the two Governments as soon as possible. Although unable to admit the validity of the grounds on which the Norwegian Government base their claim to annexation of Jan Mayen Island, His Majesty's Government in the United Kingdom are prepared to recognise the claim on the condition that the Canadian claim to the Otto Sverdrup Islands shall be recognised by the Norwegian Government and that the handsome offer, which it is understood that the Canadian Government is prepared to make to Dr. Sverdrup in compensation for any personal claims he may have, proves satisfactory to all parties.



No mention is being made of Peter I Island because the Norwegian Prime Minister recently indicated to His Majesty's Minister at Oslo that this Island was of no value to Norway and that the Norwegian Government had not consequently annexed it.

I am to express the hope that this information will reach the Canadian Government in sufficient time to enable the offer to Dr. Sverdrup to be made, as suggested in your letter, at the same time as this announcement to the Norwegian Government and I take this opportunity of thanking you on Sir William Clark's behalf for your courtesy in dealing so promptly with this matter at the beginning of this month when, as I know, your time was fully occupied with other and weightier questions.

Yours sincerely,

R. H. HADOW

921.

*Le secrétaire d'État aux Affaires extérieures à E. Bordewick*

*Secretary of State for External Affairs to E. Bordewick*

TELEGRAM

Ottawa, January 24, 1930

Your letter December thirteenth to Prime Minister received. Question given further careful consideration. As you are aware Canadian Government is prepared to make reasonable grant in recognition of Commander Sverdrup's contribution to scientific knowledge of Canadian Arctic archipelago. Some misunderstanding exists as to London conversations regarding Bouvet Island. Our statement in Paris was merely that question of linking the two matters was discussed by Norwegian Minister and Lord Cushendun. It was not implied that formal offer had been made or accepted. Outlays of Norwegian expedition are not considered to have bearing on matter from angle of Canadian Government's present interest and in any case as such scientific research is and will be carried on by Canadian Government as incidental and normal feature of its administrative activities in the Arctic islands cost is much less than under previous conditions where special expeditions were necessary. We are prepared on the understanding previously discussed to make a final offer of twenty-five thousand dollars cash payment to Commander Sverdrup together with life annuity of twenty-four hundred dollars to begin April first nineteen twenty-nine. This is final and sole offer. In this connection it is understood Commander Sverdrup would be prepared to furnish any additional data not published and including original maps, notes, diaries, or other documents of service.

922.

*E. Bordewick au secrétaire d'État aux Affaires extérieures**E. Bordewick to Secretary of State for External Affairs*

TELEGRAM

Oslo, February 11, 1930

Your telegram January twenty-fourth feel offer far below Paris expectations. Settlement can now be arranged provided life annuity be calculated according special medical opinion of Sverdrup and his family's exceptional high vital power which suggests capitalization at forty-two thousand once for all making total grant sixty-seven thousand dollars cash.

BORDEWICK

923.

*Le secrétaire d'État aux Affaires extérieures à E. Bordewick**Secretary of State for External Affairs to E. Bordewick*

TELEGRAM

Ottawa, February 26, 1930

Your telegram February eleventh received and its representations carefully considered. Canadian Government as already indicated desires to recognize adequately Commander Sverdrup's services in exploration of Canadian Arctic Archipelago. It is prepared to agree to the modified proposal contained in your telegram under reference and to recommend to Parliament in estimates submitted this session payment to Commander Sverdrup of sum of sixty-seven thousand dollars conditional on his being prepared to furnish material referred to in our telegram January twenty-fourth and being available for consultation at any time as required, as to statement regarding islands in question. It is also understood that undertaking set forth in Commander Sverdrup's letter of 22nd April, 1929, will be carried out.

924.

*Le Haut commissariat britannique au ministère des Affaires extérieures**Office of British High Commissioner to Department of External Affairs*

Ottawa, April 2, 1930

## MEMORANDUM

In conversation with His Majesty's Minister at Oslo the Norwegian Prime Minister stated that his Government was ready to recognise the Canadian claim to the Otto Sverdrup Islands on the following conditions:

- (i) That the fishing rights and the right to land on the islands or in the waters around them should be retained by Norwegian subjects.

(ii) That specific mention be made of the Islands and that no recognition of any sector should be implied.

The Prime Minister maintained that Norwegians had the right to fish and hunt across the coast of Greenland and that it might be of importance to them to be allowed to pursue whales and seals in the neighbouring districts in which the Otto Sverdrup Islands lie. At the same time he thought that the first condition, outlined above, was more a formality than anything else, since he knew of no fishing or hunting in the vicinity of the Sverdrup Islands. When making these observations the Prime Minister asked for a written communication regarding the arrangement proposed. Consequently a formal exchange of Notes seems desirable when and if an agreement is made with the Norwegian Government.

His Majesty's Government in the United Kingdom would be glad to receive the views of His Majesty's Government in Canada concerning the conditions set forth by the Norwegian Prime Minister.

925.

*Le sous-secrétaire d'État aux Affaires extérieures au secrétaire,  
Haut commissariat britannique*

*Under-Secretary of State for External Affairs to Secretary,  
Office of British High Commissioner*

Ottawa, May 22, 1930

My dear Hadow,

With reference to the High Commissioner's memorandum of the 2nd April regarding a conversation between His Majesty's Minister in Oslo and the Norwegian Prime Minister as to the Sverdrup Islands, I may say that provision is being made in the Supplementary Estimates, which are to be tabled immediately, for payment of \$67,000 to Commander Sverdrup on the conditions previously agreed upon.

The Canadian Government will be quite prepared to acquiesce in the suggestion of the Norwegian Prime Minister that specific mention be made of the Islands and no recognition of any sector be implied. It does not, however, consider it desirable to accept the condition providing that fishing rights and the right to land on the Islands in question, should be retained by Norwegian subjects. This condition, which is now suggested for the first time, does not appear to be practicable or necessary. The fishing rights in this area are not likely to be of any particular value, while on the other hand the establishing of a servitude of this nature would greatly complicate the situation. The Norwegian Government may be assured that if in the future individual instances arise of Norwegian subjects desiring to share in the fishing rights or the right to land on the Islands, the Canadian Government will be prepared, in view of the friendliness shown by the Norwegian Government in this connection to deal with such cases with every possible consideration.

I shall advise you later as soon as the appropriation for Commander Sverdrup has received the approval of Parliament.

Yours sincerely,

O. D. SKELTON

926.

*Le sous-secrétaire d'État aux Affaires extérieures au secrétaire,  
Haut commissariat britannique*

*Under-Secretary of State for External Affairs to Secretary,  
Office of British High Commissioner*

Ottawa, June 13, 1930

My dear Hadow,

With reference to my letter of the 22nd May regarding the Sverdrup Islands, I may say that we have received a telegram from Mr. Bordewick asking information as to the payment of money.

As you are aware, the appropriation has been authorized by Parliament and formal release of the money which has to be made by Order-in-Council may be expected in a few days. We are informing Mr. Bordewick accordingly.

It seems that now is the appropriate time to take up the matter relating to the form in which the arrangement is to be concluded.

In his letter of the 22nd April, 1929, to the Prime Minister, Commander Sverdrup said that "as soon as the amount of compensation has been agreed upon, I bind myself to obtain by telegraph a satisfactory declaration from the Norwegian Government that the Kingdom of Norway waives all claim to the territories aforesaid". From the very beginning, we have taken the view that, as far as this aspect is concerned, nothing should be done which would in any way involve an acknowledgment of Norwegian claims and that the payment to Commander Sverdrup is to be conditional on a recognition that the islands form part of Canadian territory. From Commander Sverdrup's letter referred to above, the intention seems to have been that the aspect of the arrangement relating to recognition, would take the form of a unilateral declaration, that is a declaration by the Government of Norway, and that the part to be played by the Canadian Government would consist in agreeing to pay a specified sum of money to Commander Sverdrup on a basis agreed upon with his attorney.

On the other hand, your memorandum of the 22nd April indicates the desire of the Norwegian Prime Minister that the form of the arrangement be an exchange of notes. To this course, the Canadian authorities see no objection, and it may possibly be the best or the only practical course. If this course is to be followed, there arises the question as to what the notes to be exchanged should contain and it is natural that all parties concerned should wish beforehand to come to an understanding in this regard.

From your letter of the 21st January to me, it appears that "although unable to admit the validity of the grounds on which the Norwegian Gov-

ernment base their claim to annexation of Jan Mayen Island, His Majesty's Government in the United Kingdom are prepared to recognize the claim on the condition that the Canadian claim to the Otto Sverdrup Islands shall be recognized by the Norwegian Government, etc". I may say in this connection that the Canadian Government do not think it desirable that a reference to this attitude of His Majesty's Government in the United Kingdom as a condition should form part of the notes to be exchanged between His Majesty's Minister at Oslo acting in respect of Canada and the Norwegian Minister for Foreign Affairs, as it might imply acknowledging to some extent the Norwegian claim to the Sverdrup Islands. Furthermore, they do not quite see that the two matters can consistently be linked up together, in view of the position which they have taken towards Norway in regard to the Sverdrup Islands, and in view of the fact that the real quid pro quo for the Norwegian Government's action is the payment which Canada proposes to make to Commander Sverdrup. These considerations of course would not in any way tell against a simultaneous exchange of notes between the Governments of the United Kingdom and of Norway regarding Jan Mayen Island.

We should like to suggest that the notes to be exchanged, as regards the Sverdrup Islands, might be three in number. The first note, to be presented by His Majesty's Minister at Oslo acting in respect of the Canadian Government, would request the transmission of a cheque of \$67,000. made to the order of Commander Sverdrup and presented in recognition of his services to scientific research in the Canadian Archipelago, and in payment of certain valuable documents and information etc. The second note, from the Norwegian Minister for Foreign Affairs, would be an acknowledgment, affording also an opportunity (possibly taking form in a separate note) of recognizing in appropriate terms the Sverdrup Islands as forming part of Canadian territory. The final communication, from His Majesty's Minister acting in respect of the Canadian Government, would serve to take note of this recognition.

We should be glad to have the views of the Norwegian Government on the subject of this exchange of notes.

Yours sincerely,

O. D. SKELTON

927.

*O. Sverdrup au Premier ministre*

*O. Sverdrup to Prime Minister*

Oslo, July 2, 1930

Sir,

During my negotiations recently completed with your Government in regard to the transfer of the Sovereign Rights to the so-called Sverdrup Islands from



Norway to Canada, you have honoured me by making it a condition that I have to be available for consultation at any time as required as to statement regarding the islands in question.

On account of this reservation by your Government I find myself called upon to offer my services also for other purposes. My attention has namely during this year been called to the fact that Canadian newspapers constantly at intervals maintain the rumour that Canada is thinking of buying Greenland from Denmark.

As I find this idea quite natural and for many strong reasons well founded, especially now, when the question of the Sverdrup Islands has been settled, and when the new State Railway to Fort Nelson has been built, I venture to offer my services as confidential agent for your Government for acquisition of Greenland, provided the decision of a purchase might be taken.

My numerous expeditions—scientific as also based on catching—to Greenland, to the coasts as well to the interior, have given me a good deal of detailed knowledge and experience of conditions in Greenland.

My friendly connections with the Danish authorities in Greenland and also with the Danish Government officials in Copenhagen should also be of use for a successful accomplishment of a purchase, provided Denmark might be induced to sell. I wish to add, that provided my proposition might be considered as of value, I would ask you to agree to that this case should be entrusted to me in full cooperation with Mr. Eivind Bordewick, who now has completed on my behalf the negotiations with you in the matter of the Sverdrup Islands.

I fully understand the delicate nature of this matter and the difficulties which may arise in connection herewith, and wish at once most earnestly to state that everything in connection with this matter would be treated by Mr. Bordewick and myself strictly confidential and secret. I dare say a successful work would in this case entirely be dependent of this.

To give an idea of the opinion in this country of these rumours of a Canadian purchase of Greenland I am attaching copies in translation of two articles from two of the principal newspapers of Oslo, viz:

1 translated article of the "Tidens Tegn" of March 13th. 1930

1 " " " " "Aftenposten" " June 11th. 1930

Provided my proposition might be of interest to you, Mr. Bordewick and myself, or he alone, would, if required, be willing to come to Ottawa this Fall for instructions and to discuss the matter.

I have etc.

OTTO SVERDRUP

928.

*Le secrétaire, Haut commissariat britannique, au sous-secrétaire d'État  
aux Affaires extérieures*

*Secretary, Office of British High Commissioner, to Under-Secretary of State  
for External Affairs*

PERSONAL

Ottawa, August 11, 1930

My dear Doctor,

In connection with the considerable amount of publicity recently given at Williamstown and Washington to Canada's rights in the Arctic and supposed schemes for the purchase of Greenland by either Canada or Great Britain, you may be interested in the enclosed copy of a despatch from Oslo which reached us a short while ago. The Canadian press comment to which this despatch refers must, I think, be the articles which have from time to time appeared in the "Manitoba Free Press" one of which, entitled "Greenland and Canada", was published on the 31st January last.

Yours sincerely,

R. H. HADOW

[PIÈCE-JOINTE/ENCLOSURE]

*Le ministre britannique en Norvège au secrétaire  
aux Affaires étrangères britannique*

*British Minister in Norway to British Foreign Secretary*

DESPATCH

Oslo, June 14, 1930

Sir,

There have been recently a number of references in the Norwegian press to a movement said to be on foot in Canada for the purchase from Denmark of the Sovereignty over Greenland. From the tone of most of these articles, which mentioned that suggestions had been put forward in Canada for the acquisition of Greenland, but did not discuss the question, I thought that these rumours were not taken seriously; but an article appeared in the "Aftenpost" of the 11th instant stating that the subject was attracting considerable attention in the Canadian press, "which shows a dangerous interest in this ancient Norwegian land". Though these rumours are denied in Denmark, the Canadian press, according to the "Aftenpost", seems to consider that the question is merely one of offering a big enough price; and the Norwegian paper recalls the great interest felt in Norway for hunting and fishing rights both in Greenland and in all Arctic waters. The "Consolidation of Canadian Arctic interests", to which the Canadian newspapers refer, will, the article continues, very materially affect Norway; and, if it

takes place as a part of the system of claiming sectors, practically all the Arctic regions will be divided between Canada and Russia, whilst Norwegians, who have the greatest interest in hunting and fishing in those regions, will be left with a very small part of them.

2. You are aware from Sir Francis Lindley's despatch No. 32 of February 1st 1924 and subsequent correspondence of the claims of Norway with regard to that country. The Norwegian case is argued in detail in a book recently published in Oslo by Herr Gustav Smedal entitled: "The acquisition of sovereign rights over Polar regions". In it the author discusses first the methods by which States can occupy territories and the validity of the claims of certain states to annex "sectors" of the polar regions; and secondly, the situation in Greenland. With regard to the acquisition of sovereignty, Herr Smedal maintains that ever since the eighteenth century effective occupation has been considered to be essential; and he insists that this rule applies to the polar regions as well as to other parts of the earth, although, in glacial regions as in deserts, the precise conditions of an "effective" occupation may differ somewhat from those required in more normal parts of the world.

3. The claim to sectors he considers quite indefensible; and he points out that it would give to Norway a very small portion of the polar regions, whereas the Soviet Union and Canada would reserve to themselves immense tracts, including much of the Arctic Ocean, where Norwegian economic interests are greater than those of the claimants, owing to the many Norwegians who fish and hunt in those regions.

4. With regard to Greenland, the writer argues that, whereas Denmark has good claims to the western part of this island, East Greenland is a "no-man's land". Norway did not enjoy sovereignty over East Greenland in 1814, so she could not transfer it to Denmark then; and, in any case there has been no effective occupation since.

5. The whole subject is discussed at considerable length; but I need not trouble you with any further summary of the arguments advanced, either with regard to Danish claims in Greenland, or with regard to Canadian claims in the Arctic and the claims of other British Governments in the Antarctic. The translation of the whole book seems unnecessary; but you may wish to have a copy for reference, should the views of this author be mentioned in future discussions respecting sovereignty over polar regions. I await your instructions as to whether I should order further copies.

6. The question of Greenland has further been brought to the notice of the public to-day by the announcement in the press that the Government of Greenland has refused permission for a journey across that country from west to east, which had been planned for this summer by two Norwegian students named Mehren and Hoygaard. The reason given for this refusal is that the Government of Greenland considers the plan of these students

to be impossible of execution; but from headings in the newspapers here, the prohibition is evidently regarded by many as part of a policy of keeping Norwegians out of the country.

7. I may mention in this connection that a Royal Resolution of the 6th instant prescribes that no one may hunt or fish on Jan Mayen Island without permission from the Department of Commerce, which can attach conditions to any permission granted. This decision, which replaced the provisional orders of September 27th, 1929, came into force on the day it was taken. Any infringement of its terms are subject to penalties.

I have etc.

CHARLES WINGFIELD

929.

*Le sous-secrétaire d'État aux Affaires extérieures au secrétaire,  
Haut commissariat britannique*

*Under-Secretary of State for External Affairs to Secretary,  
Office of British High Commissioner*

PERSONAL

Ottawa, August 12, 1930

My dear Mr. Hadow,

I am much obliged by your note of the 11th August, (No. 80/30) enclosing a copy of a despatch from Oslo regarding the purchase of Greenland. It is an interesting example of the way in which a newspaper yarn sent out in one country continues to be bandied back and forth across the ocean, changing its direction and its content in each period. Perhaps at some future time Canada might be interested in Greenland, but at present the Government has enough matters nearer home to absorb its attention.

The comments on the Norwegian and Danish claims to Greenland are of much interest.

Yours sincerely,

O. D. SKELTON

930.

*Le secrétaire, Haut commissariat britannique, au sous-secrétaire d'État  
aux Affaires extérieures*

*Secretary, Office of British High Commissioner, to Under-Secretary of State  
for External Affairs*

Ottawa, August 12, 1930

My dear Doctor,

With reference to my letter 2/30 of yesterday's date, I enclose herewith the texts of the two Notes addressed to His Majesty's Secretary of State for Foreign Affairs by the Norwegian Charge d'Affaires, with regard to the Sverdrup Islands.

I am informed that the alteration in the Norwegian attitude with regard to fishing or economic activities since Herr Esmarch<sup>1</sup> spoke to His Majesty's Minister at Oslo on the 11th June necessitates careful consideration of the second Note under reference, as to which the considered views of His Majesty's Government in the United Kingdom will be telegraphed as soon as possible.

In the meantime it is suggested that His Majesty's Government in Canada may consider the advisability of withholding publication and any payment to Otto Sverdrup pending final settlement of this point.

Yours sincerely,

R. H. HADOW

[PIÈCE JOINTE 1/ENCLOSURE 1]

*Le chargé d'affaires de Norvège en Grande-Bretagne au secrétaire  
aux Affaires étrangères britannique*

*Norwegian Chargé d'Affaires in Britain to British Foreign Secretary*

No. 95

London, August 8, 1930

Sir,

Acting on instructions from my Government I have the honour to request you to be good enough to inform His Majesty's Government in Canada that the Norwegian Government, who do not as far as they are concerned claim sovereignty over the Sverdrup Islands, formally recognise the sovereignty of His Britannic Majesty over these islands.

At the same time my Government is anxious to emphasize that their recognition of the sovereignty of His Britannic Majesty over these islands is in no way based on any sanction whatever of what is named "the sector principle".

I have etc.

DANIEL STEEN

[PIÈCE JOINTE 2/ENCLOSURE 2]

*Le chargé d'affaires de Norvège en Grande-Bretagne au secrétaire  
aux Affaires étrangères britannique*

*Norwegian Chargé d'Affaires in Britain to British Foreign Secretary*

No. 96

London, August 8, 1930

Sir,

With reference to my note of to-day in regard to my Government's recognition of the sovereignty of His Britannic Majesty over the Sverdrup Islands.

<sup>1</sup> Esmarch était secrétaire général au ministère des Affaires étrangères de Norvège. On a rapporté que durant l'entretien du 11 juin il n'avait pas semblé attacher beaucoup d'importance aux stipulations originales relatives aux droits de chasse et de pêche.

<sup>1</sup> Esmarch was Secretary General of the Norwegian Ministry of Foreign Affairs. It was reported that during the interview on June 11 he did not "seem to attach much importance to the original stipulations with regard to hunting and fishing rights."



I have the honour, under instructions from my Government, to inform you that the said note has been despatched on the assumption on the part of the Norwegian Government that His Britannic Majesty's Government in Canada will declare themselves willing not to interpose any obstacles to Norwegian fishing, hunting or industrial and trading activities in the areas which the recognition comprises.

I have etc.

DANIEL STEEN

931.

*Le sous-secrétaire d'État aux Affaires extérieures au secrétaire,  
Haut commissariat britannique*

*Under-Secretary of State for External Affairs to Secretary,  
Office of British High Commissioner*

Ottawa, August 21, 1930

My dear Dr. Hadow,

I am in receipt of your letter of the 12th August enclosing the texts of the two notes addressed to the Secretary of State for Foreign Affairs by the Norwegian Chargé d'Affaires in London with regard to the Sverdrup Islands.

The Canadian Government is pleased to observe that in the first note the Norwegian Government recognize the sovereignty of His Britannic Majesty over the Sverdrup Islands, and indicate that they do not themselves claim sovereignty over them.

The second note, however, raises difficulties. A declaration such as is suggested, that the Canadian Government will not interpose any obstacles to Norwegian fishing, hunting, industrial or trading activities in the areas concerned, would in any case be difficult to make, in view of the indefinite terms of the suggested declaration and of the doubt which might be implied as to the complete sovereignty of His Britannic Majesty. Quite aside from these considerations, however, we should like to make it clear that the regulations in force in the Canadian Arctic prohibit hunting and trapping even by Canadian nationals, other than Indians or Eskimos. Under Order-in-Council passed on the 19th July, 1926 (P.C. 1146) it is provided that except with the permission of the Commissioner of the North West Territories no person other than native Indians or Eskimos shall hunt, trap, trade, or traffic for any purpose whatsoever in certain areas, which, in addition to a large part of the districts of Mackenzie and Keewatin on the mainland, included the whole of the Arctic islands north of the mainland, with the exception of the southern portion of Baffin Island. The considered and established policy of the Canadian Government, for the protection of the natives of the Arctic regions, is clearly set out in this Order-in-Council, which states that these measures are taken because "unless further steps are taken to protect the areas reserved as hunting and trapping preserves for the sole use of the aboriginal population of the North-West Territories,

there is grave danger that these natives will be reduced to want and starvation through the wild life being driven out of said preserves by the exploitation of the same by white traders and other white persons." Only four posts, on the mainland and islands on the southern margin of the preserve, have been allowed to continue under license, and all other requests for hunting or trading purposes by white persons, Canadians or others, including the Hudson's Bay Company, have been refused. It is further provided that no person, even Indians or Eskimos, may hunt or kill or traffic in the skins of the musk-ox, buffalo, wapiti, or elk.

The Canadian Government is convinced that the Government of Norway, when placed in possession of these facts, which indicate that Canadian nationals (other than Indians or Eskimos) are not permitted to hunt or trade in the Arctic archipelago, will recognise that the Canadian Government is not in a position to make a declaration that such privileges will be granted to Norwegian citizens, and that the Government of Norway will not consider it necessary to make any stipulation or addition to the statement contained in the first note.

Yours sincerely,

O. D. SKELTON

932.

*Le secrétaire, Haut commissariat britannique, au sous-secrétaire d'État  
aux Affaires extérieures*

*Secretary, Office of British High Commissioner, to Under-Secretary of State  
for External Affairs*

Ottawa, August 30, 1930

Dear Dr. Skelton,

With reference to previous correspondence regarding the Sverdrup Islands, I am writing in Hadow's absence to let you know that he telegraphed the substance of your letter of the 21st August to London, and has now received a reply saying that His Majesty's Government in London fully appreciate the position of the Canadian Government in this matter and will, of course, do their best to secure the withdrawal of the second Norwegian note.

It is suggested in this message that, in view of the assurance previously conveyed to the Norwegian Government, on the basis of the last sentence of paragraph 2 of your letter of the 22nd May, the best course would be that His Majesty's Minister at Oslo should be authorised in negotiating with the Norwegian Government to give them, at his discretion, in return for the withdrawal of their second Note, a written assurance which they could

publish, should they so desire, to the effect that, so far as may be compatible with their general policy, as evidenced by the Order in Council of the 19th July, 1926, His Majesty's Government in Canada would be ready at all times to give the utmost consideration to any Norwegian application for fishing or landing facilities on the islands.

We are asked to ascertain whether this suggestion commends itself to the Canadian Government, and whether they have any special views as to the terms of the suggested assurance.

Yours sincerely,

P. LIESCHING

933.

*Le sous-secrétaire d'État aux Affaires extérieures au secrétaire,  
Haut commissariat britannique*

*Under-Secretary of State for External Affairs to Secretary,  
Office of British High Commissioner*

Ottawa, September 2, 1930

My dear Mr. Liesching,

I have your note of Aug. 30 regarding the Sverdrup islands discussion.

We would expect that the Norwegian Government, upon being placed in possession of the full details as to the policy of protecting the aborigines which the Canadian Government has adopted in the Arctic, involving the exclusion of Canadian white men as well as outsiders from the exploitation of this area, would not press the request. We would much prefer, therefore, that no assurance be published, even in the modified form suggested in your note, should be given. So long as the general policy evidenced by the 1926 Order-in-Council is in force—and there is no indication of any desire to change it—such an assurance would, as a matter of fact, amount to nothing. If, however, the Norwegian Government presses for some statement, we would be prepared, in view of the desirability of an early termination of the negotiations and of the assurance previously conveyed on the basis of our letter of the 22nd May, to agree to a statement in the terms proposed. May I repeat, however, that we hope that this will not prove necessary?

Press despatches indicate that Commander Sverdrup is seriously ill in Copenhagen. We are therefore anxious to complete the financial transactions with him as soon as possible.

Yours sincerely,

O. D. SKELTON

934.

*Le sous-secrétaire d'État aux Affaires extérieures au secrétaire,  
Haut commissariat britannique*

*Under-Secretary of State for External Affairs to Secretary,  
Office of British High Commissioner*

Ottawa, September 23, 1930

My dear Mr. Hadow,

I am in receipt of your letter of Sept. 15 giving the substance of a discussion between His Majesty's minister at Oslo and the Secretary-General of the Norwegian Ministry for Foreign Affairs on Sept. 12, regarding the Swerdrup islands.

If on further consideration the Norwegian Government is unwilling to withdraw its second note, the Canadian Government would be prepared to agree to an answer being sent to it substantially as follows:

His Majesty's Government in Canada has noted the desire on the part of the Norwegian Government that no obstacles should be interposed to Norwegian fishing, hunting, or industrial and trading activities in the area which the recognition comprises, and wishes to assure the Norwegian Government that it would have pleasure in according any possible facilities. It wishes, however, to draw attention to the fact that it is the established policy of the Government of Canada, as set forth in an Order-in-Council of July 19, 1926, and subsequent Orders, to protect the Arctic areas as hunting and trapping preserves for the sole use of the aboriginal population of the Northwest Territories, in order to avert the danger of want and starvation through the exploitation of the wild life by white hunters and traders. Except with the permission of the Commissioner of the Northwest Territories, no person other than native Indians or Eskimos is allowed to hunt, trap, trade, or traffic for any purpose whatsoever in a large area of the mainland and in the whole Arctic island area, with the exception of the southern portion of Baffin Island. It is further provided that no person may hunt or kill or traffic in the skins of the musk-ox, buffalo, wapiti, or elk. These prohibitions apply to all persons, including Canadian nationals. Should, however, the regulations be altered at any time in the future His Majesty's Government in Canada would treat with the most friendly consideration any application by Norwegians to share in any fishing, hunting, industrial, or trading activities in the areas which the recognition comprises.

Yours sincerely,

O. D. SKELTON

935.

*O. Sverdrup au secrétaire d'État aux Affaires extérieures  
O. Sverdrup to Secretary of State for External Affairs*

Sandvika pr. Oslo, November 5, 1930

Sir,

I beg to acknowledge receipt of payment of £13.767—2—9 which amount yesterday was paid to me in cheque by the British Minister in Oslo, being full payment of the grant voted by your Parliament in recognition of my contribution to scientific knowledge of Arctic Archipelago.

With reference to my telegram of the 25th. October I have delivered to the British Minister, in accordance with your demand by your telegram of the 24th. October,

Seven copies of Charts and Sketches, and

Thirteen private diaries.

In this connection and with reference to your telegram of the 24th. October I shall be glad to have the said thirteen diaries returned after use.

According to your request by your telegram of the 24th. October I am forwarding to you by mail an additional copy of "Report of the Second Norwegian Arctic Expedition In the *Fram* 1898-1902", together with a "Supplementary Volume" (the 5th. Volume), which has been issued last week by Det Norske Videnskaps Akademi i Oslo.

I beg to refer to my letter dated July 2nd. 1930, addressed to the Hon. W. L. Mackenzie King, LLd, Prime Minister of Canada, regarding an eventual purchase of Greenland, by your Government, and shall be glad to receive your answer regarding this matter at your convenience.

I have etc.

by authority [of] Otto Sverdrup

EIVIND BORDEWICK

936.

*Le secrétaire, Haut commissariat britannique, au sous-secrétaire d'État  
aux Affaires extérieures*

*Secretary, Office of British High Commissioner, to Under-Secretary of  
State for External Affairs*

Ottawa, November 8, 1930

URGENT

My dear Doctor,

I enclose herewith copies of the notes exchanged between His Majesty's Charge d'Affaires at Oslo and the Norwegian Minister for Foreign Affairs regarding the recognition by Norway of Canadian claims to the Sverdrup Islands.

His Majesty's representative reports that the settlement is now complete and the High Commissioner has been instructed to ascertain the date and hour at which the Canadian Government desire the Notes to be published simultaneously in Ottawa and Oslo in accordance with the request put forward in your letter of the 23rd of October, and agreed to by the Norwegian Government. You will no doubt have taken into consideration the difference in time between the two capitals, which will necessitate a certain difference between the apparent times of publication as between Oslo and Ottawa.



At the same time I should be glad to know the instructions you will send to His Majesty's Charge d'Affaires at Oslo with regard to delivery of the draft for \$67,000.00 to the representative of Dr. Sverdrup; which delivery will no doubt follow closely upon the publication of the notes under reference.

Yours sincerely,

R. H. HADOW

[PIÈCE JOINTE 1/ENCLOSURE 1]

*Le chargé d'affaires britannique en Norvège au ministre  
aux Affaires étrangères de Norvège*

*British Chargé d'Affaires in Norway to Norwegian Foreign Minister*

Oslo, November 5, 1930

Monsieur le Ministre,

At the instance of His Majesty's Government in Canada and under instructions of His Majesty's Principal Secretary of State for Foreign Affairs, I have the honour to invite reference to the two Notes addressed to His Majesty's Secretary of State for Foreign Affairs by the Norwegian Chargé d'Affaires at London on August 8th last, in regard to the recognition by the Norwegian Government of the sovereignty of His Britannic Majesty over the Otto Sverdrup Islands, and to inform you that. . .<sup>1</sup>

I avail etc.

K. R. JOHNSTONE

[PIÈCE JOINTE 2/ENCLOSURE 2]

*Le ministre aux Affaires étrangères de Norvège au chargé d'affaires  
britannique en Norvège*

*Norwegian Foreign Minister to British Chargé d'Affaires in Norway*

Oslo, November 5, 1930

Monsieur le Charge d'Affaires,

I have the honour to acknowledge receipt of your Note of the fifth in reply to two Notes from the Norwegian Charge d'Affaires London to the British Foreign Ministry (Secretary) of August 8th last regarding the Norwegian recognition of His Britannic Majesty's sovereignty over Otto Sverdrup Islands.

The Norwegian Government have noted that the Canadian Government would have willingly granted every possible facility to Norwegian fishing,

<sup>1</sup> Suivait le texte reproduit sous le n° 934.

<sup>1</sup> The remainder of the text was that authorized in Document 934.

hunting or industrial and trading activities but that it is a leading principle in the policy of the Canadian Government to preserve the Arctic regions as hunting and trapping preserves for the sole use of the aboriginal population of the north-west territories in order to prevent their being in want as a consequence of exploitation of wild life by white hunters and trappers and that they have drawn up more definite regulations to this end by means of several Orders-in-Council.

The Norwegian Government have noted that should these regulations be altered in future the Canadian Government will treat in most friendly manner any application from Norwegians for facilities to carry on fishing, hunting, industrial or trading activities in the areas which the Norwegian Government's recognition comprises.

I beg to inform you that in the circumstances the Norwegian Government find themselves able to concur in this reply to the above mentioned Notes of August 8th last.

I avail myself etc.

ESMARCH  
for the Minister for  
Foreign Affairs

937.

*E. Bordewick au secrétaire d'État aux Affaires extérieures*

*E. Bordewick to Secretary of State for External Affairs*

TELEGRAM

Oslo, November 26, 1930

Commander Otto Sverdrup died this morning.

BORDEWICK

#### POLOGNE/POLAND

938.

*Le secrétaire d'État aux Affaires extérieures au secrétaire  
aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM

Ottawa, December 2, 1927

Your telegram 28th November regarding Polish Customs duties. Canadian Government would be prepared to give undertaking to the effect that (1) goods imported from Poland would not be subject to treatment less favourable than that accorded to goods imported from other foreign countries with the exception of goods originating from those countries to which in virtue of a commercial treaty special Customs rebates have been granted, or in

other words, to extend to Polish goods the benefits of the Canadian intermediate tariff, and (2) that goods exported to Poland would not benefit from Government premiums or facilities. There is no system of Government grants or facilities to exports to any country. In return we understand Poland would apply general or regular tariff to goods produce or manufacture of Canada. We would request that in addition the conventional duty should be accorded on the following goods: solid rubber tires, pneumatic tires, automobiles, chassis and automobile bodies. Canada is prepared to make temporary provision on the above basis on the understanding that a permanent agreement on a reciprocal most-favoured-nation basis will be negotiated at an early date.

939.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

DESPATCH 55

Downing Street, February 21, 1928

Sir,

With reference to the telegram from the Dominions Office Circular A. No. 5 of the 1st February, I have the honour to transmit, for the consideration of His Majesty's Government in Canada, the accompanying copy of a Note from the Polish Government regarding commercial relations between Canada and Poland.

2. I should be glad to learn what reply His Majesty's Government in Canada would wish to be returned to the Polish Government's Note.

I have etc.

L. S. AMERY

[PIÈCE JOINTE/ENCLOSURE]

*Le secrétaire des Affaires étrangères de Pologne au ministre britannique  
en Pologne*

*Polish Foreign Secretary to British Minister in Poland*

Varsovie, le 16 janvier 1928

Monsieur le Ministre,

Par sa note No. 184 du 20 décembre 1927 M. Leeper a bien voulu me proposer au nom du Gouvernement de Sa Majesté Britannique au Canada un arrangement provisoire pour le commerce entre le Canada et la Pologne d'après lequel: (1) le tarif intermédiaire canadien serait appliqué aux produits polonais en échange de l'application du tarif normal polonais aux produits du

Canada, (2) aucunes primes ni facilités spéciales ne seraient accordées aux produits canadiens exportés en Pologne. Le Gouvernement de Sa Majesté Britannique au Canada demande en outre l'application des tarifs conventionnels pour les pneumatiques et bandages pleins, les chassis d'automobiles et les carrosseries d'automobiles.

En vous accusant réception de ladite note, j'ai l'honneur de vous informer que le Gouvernement Polonais est prêt dès à présent à conclure un arrangement provisoire avec le Canada sur la base des déclarations et 2 de la note No. 184 de M. Leeper. En ce qui concerne l'application à certains produits canadiens énumérés ci-dessus (liste A)<sup>1</sup> des tarifs conventionnels, le Gouvernement Polonais pourrait y consentir seulement à condition que le Gouvernement de Sa Majesté Britannique au Canada accorde le bénéfice de pareils tarifs à certains produits polonais énumérés dans la liste B ci-jointe<sup>1</sup>.

Toutefois, j'ai l'honneur d'attirer votre attention sur le fait que l'inclusion de dispositions concernant les tarifs conventionnels dans l'arrangement en question nécessiterait sa ratification par les parlements polonais et canadien.

Vu que le Gouvernement Polonais est d'accord avec le Gouvernement de Sa Majesté Britannique au Canada pour entamer aussitôt que possible des négociations en vue de la conclusion d'une convention commerciale permanente, j'ai l'honneur de vous proposer la remise de la question de tarifs conventionnels pour les produits énumérés dans les listes A et B jusqu'au terme de ces négociations, ce qui permettrait de conclure un arrangement provisoire d'après le texte ci-joint<sup>1</sup>.

Dans le cas où le Gouvernement de Sa Majesté au Canada ne consentirait pas à cette proposition, mon Gouvernement serait prêt à ajouter au dit arrangement les paragraphes suivants:

Le paragraphe 2. Sans préjudice des dispositions susvisées, les produits originaires et en provenance du territoire douanier du Canada énumérés à la liste A ci-annexée, ne seront soumis à leur importation sur le territoire douanier de Pologne aux droits ou taxes autres ou plus élevées qu'à celles qui sont ou seront perçues des produits d'un tiers pays quelconque et les produits originaires et en provenance du territoire douanier de Pologne, énumérés à la liste B ci-annexée, ne seront soumis à leur importation sur le territoire douanier du Canada aux droits ou taxes, autres ou plus élevés qu'à ceux qui sont ou seront perçus des produits d'un tiers pays quelconque.

Le paragraphe 2 du projet aurait le No. 3.

Le paragraphe 4 pourrait être, dans ce cas, rédigé de la manière suivante:

Le présent arrangement provisoire sera ratifié et les instruments de ratification seront échangés à..... Cet arrangement entrera en vigueur le trentième jour après sa ratification et restera valable tant qu'il ne sera pas remplacé par la mise en vigueur d'une convention commerciale permanente entre la République de Pologne et le Canada ou tant qu'il ne sera pas dénoncé par l'un des deux Gouvernements, moyennant préavis de trois mois. Les Gouvernements des deux

<sup>1</sup> Non reproduits.

<sup>1</sup> Not printed.

Parties Contractantes sont d'accord de commencer le plus tôt possible les négociations nécessaires pour la conclusion d'une convention commerciale permanente—sur la base de la clause de la nation la plus favorisée.

Quant à la conclusion de la dite convention permanente j'ai l'honneur de proposer que les négociations y relatives soient menées à Varsovie ou dans une autre ville européenne, où le représentant du Canada muni des pleins pouvoirs nécessaires pourrait être présent. Vu que M. I. Russel [*sic*], représentant du Ministère du Commerce au Canada, doit se rendre d'après mes renseignements dans l'espace de quelques mois à Genève, le Gouvernement Polonais suppose qu'il serait peut-être pratique d'y mener les négociations en question.

Avant le terme de ces pourparlers je ne manquerai pas de transmettre au Gouvernement de Sa Majesté Britannique au Canada le projet d'une convention commerciale permanente entre la Pologne et le Canada.

Je vous prie, etc.

AUGUSTE ZALESKI

940.

*Le secrétaire d'État aux Affaires extérieures au secrétaire  
aux Dominions*

*Secretary of State for External Affairs  
to Dominions Secretary*

DESPATCH 221

Ottawa, June 13, 1928

Sir,

I have the honour to acknowledge the receipt of your despatch, Canada, No. 55, of February 21st, 1928, and your telegram, Circular A.15, of April 18th, regarding commercial relations between Canada and Poland.

It is observed from the note enclosed in the despatch of February 21st that the Government of Poland would be prepared to conclude a temporary agreement on the basis of receiving the benefits of the Canadian intermediate tariff, and on the understanding that goods exported to Poland would not be aided by Government premiums of special facilities, in return for the extension of the normal tariff of Poland to goods the produce or manufacture of Canada. It is also noted that the Polish Government would be prepared to agree to extending the conventional duties to Canadian automobile chassis and bodies and rubber tires only on the condition that Canada would extend conventional duties to certain specified Polish products, a provision which, it is pointed out, would require ratification by the respective Parliamentary authorities. It is further indicated that, as an alternative, the Polish Government would be prepared to conclude a temporary agreement based on exchange of the Canadian intermediate tariff for the normal tariff of Poland, pending the negotiation of a permanent trade agreement.



As the Canadian general tariff corresponds with the normal tariff of Poland (the surtax of 20% ad valorem which may be levied on goods of any foreign country which treats imports from Canada less favourably than those from other countries under Section 7 of the Canadian Customs Tariff corresponding to the maximum tariff of Poland), it is considered that it would not be possible to grant the benefits of the Canadian intermediate tariff, which is lower than the general tariff on nearly all commodities, except in return for the grant of certain Polish conventional duties. Under these circumstances, therefore, the Canadian Government would be unable to conclude a temporary agreement on the basis proposed in the Polish note of January 16th.

The Canadian Government is, however, in cordial agreement with the proposal of the Government of Poland to open negotiations as soon as possible for the conclusion of a permanent trade convention on the basis of a mutual exchange of most favoured nation tariff terms. It is not yet certain whether it will be practicable for a Canadian representative, vested with the necessary full powers to conclude negotiations, to visit Europe in the near future. The Minister of Finance and the Tariff Commissioner, Mr. J. A. Russell, will, however, both be in Europe within the next two months, and an endeavour will be made to arrange a preliminary discussion with representatives of the Government of Poland, when, it is hoped, provision can be made for concluding the negotiations before the next session of the Canadian Parliament.

Under these circumstances, it is trusted that the Polish Government will find it possible to arrange for a further postponement of the imposition of the maximum customs rate.

I have etc.

O. D. SKELTON  
for the Secretary of State  
for External Affairs

941.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

DESPATCH 336

Downing Street, August 18, 1928

Sir,

With reference to my despatch No. 266 of the 9th July, I have the honour to transmit for the consideration of His Majesty's Government in Canada, the accompanying copies of a despatch from His Majesty's Minister at Warsaw forwarding a note from the Polish Ministry for Foreign Affairs on the subject of negotiations for a commercial agreement between Canada and Poland.

2. I should be glad to learn what reply His Majesty's Government in Canada would wish to be returned to the suggestions made in the third paragraph of the note from the Polish Government.

I have etc.

L. S. AMERY

[PIÈCE JOINTE/ENCLOSURE]

*Le ministre britannique en Pologne au secrétaire des Affaires  
étrangères britannique*

*British Minister in Poland to British Foreign Secretary*

DESPATCH 321

Warsaw, August 2, 1928

Sir,

I have the honour to transmit enclosed, with reference to your despatch No. 322 of 30th June (N.3390/25/55), the text of a note which I have received from the Ministry for Foreign Affairs accepting the proposal of His Majesty's Government in Canada to open negotiations for a commercial agreement.

2. I should be glad to be instructed in due course what answer to return to the suggestions contained in paragraph 3 of the Polish note.

3. It will be observed that the application of maximum duties to Canadian goods has been suspended until 15th October.

I have etc.

W. ERSKINE

[ANNEXE À LA PIÈCE JOINTE/SUB-ENCLOSURE]

*Le secrétaire aux Affaires étrangères de Pologne au ministre britannique  
en Pologne*

*Polish Foreign Secretary to British Minister in Poland*

Varsovie, le 31 juillet 1928

Monsieur le Ministre,

En réponse à votre note du 10 juillet 1928 No. 114 concernant certaines propositions du Gouvernement de Sa Majesté Britannique au Canada pour la conclusion d'un Traité de Commerce avec la Pologne, j'ai l'honneur de vous communiquer que le Gouvernement Polonais est prêt à entamer des négociations aussitôt que possible selon le désir exprimé par le Gouvernement de Sa Majesté au Canada dans le S 4 de la note susmentionnée.

Vu l'arrivée prochaine en Europe du Ministre des Finances du Canada ainsi que du Tariff Commissioner M. J. A. Russell, je me permets d'exprimer l'espoir qu'il sera possible d'établir avec eux les bases du traité en question et de fixer le plan des négociations.

Le Gouvernement polonais serait particulièrement heureux si les Délégués du Canada pourraient venir en Pologne et mener les négociations à bonne fin à Varsovie. Au cas où cette proposition ne serait pas réalisable, le Gouvernement polonais serait prêt à envoyer ses délégués à Genève ou dans une autre ville européenne, ainsi qu'il l'a déjà communiqué dans sa note No. 40.020/28 du 16 janvier dernier.

Me référant au § 5 de votre note du 10 juillet 1928, j'ai l'honneur de vous communiquer que, vu les négociations projetées le Canada est exempté de l'application des tarifs maximaux par rapport à l'échange des marchandises entre les deux pays jusqu'au 15 octobre 1928.

Veuillez agréer etc.

ALFRED WYSOCKI

942.

*Le sous-secrétaire d'État aux Affaires extérieures au consul général  
de Pologne*

*Under-Secretary of State for External Affairs to Polish  
Consul General*

PERSONAL

Ottawa, January 15, 1929

My dear Dr. Straszewski,

In confirmation of our conversation yesterday, relative to the negotiation of a permanent trade convention between Canada and Poland, I may say that I am sending a despatch today to the Secretary of State for Dominion Affairs, London, for transmission to your Government. This despatch is in reply to a note from the Minister for Foreign Affairs of your Government, dated July 31st, 1928, transmitted through his Majesty's Minister at Warsaw. In my despatch I am pointing out that Canada is prepared to open negotiations for the conclusion of a permanent trade agreement on the basis of a mutual exchange of most-favoured-nation treatment in tariff matters at as early date as may be convenient to the Polish Government. I have suggested that as it will not be practicable for a Canadian representative vested with the necessary full powers to conclude negotiations to visit Europe in the near future, that negotiations should take place at Ottawa.

In view of the proposed negotiations, I have expressed the hope that Canadian goods imported into Poland will continue to be accorded the rates of the Polish minimum tariff, pending the conclusion of a permanent trade agreement.

Yours sincerely,

O. D. SKELTON

943.

*Le consul général de Pologne au secrétaire d'État  
aux Affaires extérieures*

*Polish Consul General to Secretary of State for External Affairs*

Montreal, October 29, 1929

Sir,

Upon instructions of my Government, I have the honour to inform you that the Polish Government accepts the proposition of the Canadian Government to begin in Ottawa negotiations for a Trade Convention between Canada and Poland.

Negotiations can begin at any date which will be convenient to the Canadian Government as the draft of the Polish project of the Convention is already in my possession and can be submitted whenever convenient<sup>1</sup>.

I have also the honour to inform you that in view of the opening of the negotiations the Polish Government will not apply until the end of this year the Polish Maximum Tariff to Canadian goods.

I have etc.

M. STRASZEWSKI

ROUMANIE/ROMANIA

944.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM B.219

London, December 31, 1929

Roumanian Government have given notice of denunciation to take effect as from the 1st March, 1930, of the Commercial Relations Agreement concluded by exchange of notes on the 11th May and 24th May, 1923. It is explained that this step is part of a general measure designed to allow Roumania to conclude Commercial Treaties with all countries on basis of new Roumanian Customs Tariff. This tariff will come into force on the 1st March, 1930, and comprises general and minimum rates. Latter are generally lower than present minimum rates, and former are 50% higher than new minimum rates. It is understood that new general rates will be imposed on goods of countries which have not concluded Commercial Agreements with Roumania. Roumanian Government have invited His Majesty's Government in the United Kingdom to enter into negotiations for a Commercial Treaty, and draft treaty as between United Kingdom and Roumania has been submitted

<sup>1</sup> Entreprises sur la base du Projet polonais, les négociations se poursuivirent au delà de la fin de l'année.

<sup>1</sup> The negotiations were conducted on the basis of the Polish draft and continued beyond the end of 1930.

to Roumanian Government by His Majesty's Minister at Bucharest. This draft contains usual clause providing for accession by the Dominions and application to Colonies *et cetera*. Copies are being sent by mail.

945.

*Le secrétaire d'État aux Affaires extérieures au secrétaire  
aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 93

Ottawa, June 11, 1930

Your telegram No. 63. Tariff relations between Canada and Roumania. Canadian Government agrees to postponement of date of denunciation of Agreement from May 26th to July 1st.

The Canadian Government should be grateful if steps could be taken to inform the Roumanian Government that as a temporary measure it is prepared to continue to extend to Roumanian goods when imported into Canada most-favoured-nation treatment after July 1st, provided an assurance is received that the Roumanian Government will continue to extend to Canadian goods the same treatment as it extends to goods the produce or manufacture of the United Kingdom.

The Canadian Government further desires to convey to the Roumanian Government its willingness to negotiate a definitive Convention of Commerce with Roumania based on the reciprocal exchange of most-favoured-nation treatment in tariff matters.

946.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM 102

London, July 12, 1930

My telegram 7th July, No. 99. His Majesty's Representative at Bucharest reports that Roumanian Government have expressed their willingness to conclude immediately with His Majesty's Government in Canada a Convention or temporary Agreement including most-favoured-nation clause.

947.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM B.120

London, July 29, 1930

My despatch 20th January, No. 44. It is expected that Anglo-Roumanian Treaty of Commerce and Navigation will be signed shortly. Roumanian dele-



gates were unwilling to accept accession of Article permitting the Dominions to accede by notification, and it has therefore been provided that any extension of the Treaty to the Dominions should be effected by means of exchange of notes. The Article providing for grant by Roumania of most-favoured-nation treatment to the goods produced or manufactured in the Dominions has been amended by the addition of clause enabling Roumania to withdraw this benefit at any time on giving six months' notice.

948.

*Le secrétaire d'État aux Affaires extérieures au secrétaire  
aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 148

Ottawa, September 18, 1930

IMMEDIATE. Your despatch No. 485, August 29th, and earlier correspondence. Tariff Relations with Roumania. Canadian Government would be grateful if steps could be taken to inform the Roumanian Government that the Canadian Government has continued to extend to Roumanian goods on importation into Canada, benefits of most-favoured-nation treatment since September 1st, and that it will continue to extend most-favoured-nation treatment to Roumanian goods provided an assurance is received prior to September 30th that the Roumanian Government is continuing to extend most-favoured-nation treatment to Canadian goods, on the basis set forth in paragraph 1, Article 36 of the Anglo-Roumanian Treaty of Commerce of August 6th.

## ESPAGNE/SPAIN

949.

*Le secrétaire aux Dominions au Gouverneur général  
Dominions Secretary to Governor General*

DESPATCH 20

Downing Street, January 13, 1926

My Lord,

With reference to Your Excellency's despatch No. 334 of the 28th of July, 1924, I have the honour to transmit to Your Excellency, to be laid before your Ministers, the accompanying copies of Notes exchanged between His Majesty's Ambassador at Madrid and the Spanish Minister of State<sup>1</sup> on the 22nd of December regarding the extension to certain parts of the Empire of the Anglo-Spanish Agreement for the abolition of the visa requirement, which have been received from His Majesty's Ambassador at Madrid.

I have etc.

L. S. AMERY

<sup>1</sup> La note du ministre d'État d'Espagne n'est pas reproduite.

<sup>1</sup> The note from the Spanish Minister of State is not printed here.

## [PIÈCE JOINTE/ENCLOSURE]

*L'ambassadeur britannique en Espagne au ministre d'État d'Espagne*  
*British Ambassador in Spain to Spanish Minister of State*

No. 343

Madrid, December 22, 1925

Your Excellency,

The Governments of Canada, New Zealand, the Union of South Africa, the Irish Free State, Newfoundland and Southern Rhodesia have agreed to the extension to their territories, including any territories administered by them under Mandate, of the existing agreement between His Britannic Majesty's Government and the Spanish Government for the abolition of the visa requirement so as to apply to all Spanish subjects desiring to enter these territories, it being understood that this extension will not absolve Spanish subjects from complying with the immigration regulations in force therein.

In this connection it may in particular be mentioned that the Canadian Government have pointed out that, while Spanish subjects proceeding to Canada are exempt from the necessity of obtaining a visa in so far as they are non-immigrants, that is, visitors, tourists or travellers, the entry of Spanish immigrants is subject to the regulations contained in the Order-in-Council of January 31st, 1923, under which if "sailing directly or indirectly from the continent of Europe", their passports must carry the visa of a British Diplomatic or Consular Officer.

In making the above communication to Your Excellency, I am instructed to suggest that the extension of the existing agreement for the abolition of the visa requirement both in regard to the territories enumerated above and to all British Colonies not possessing responsible Government, except Malta and Gibraltar, and to British Protectorates, should come into force as from January 1st, 1926 provided that His Catholic Majesty's Government consent to a similar extension in respect of the entry of all British subjects of whatever origin into the Spanish Overseas possessions, with the exception of Ceuta, Mepilla and the Spanish Zone in Morocco. It is understood that the extension of the agreement does not absolve either British or Spanish subjects from complying with the immigration regulations in force in the country which they desire to enter.

In the event of the Spanish Government concurring in this course, the present Note and Your Excellency's reply will be regarded as placing on record the understanding arrived at in the matter.

I would add that the Governments of India and of the Commonwealth of Australia have expressed their inability in the present circumstances to exempt Spanish subjects from the requirement of a visa.

I avail etc.

HORACE RUMBOLD

950.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures  
Dominions Secretary to Secretary of State for External Affairs*

DESPATCH 321

Downing Street, August 7, 1928

Sir,

With reference to my telegram No. 137 of the 31st July regarding the accession of Canada to the Anglo-Spanish Commercial Treaty of 1922 and to the agreement of June 27th, 1924, regulating the treatment of Companies, I have the honour to state that His Majesty's Representative at Madrid has reported that on the 12th July he addressed a note to the Spanish Government in the terms of the draft Note of which a copy was enclosed in my despatch No. 281 of the 18th July; and that on the 19th July he received the reply of the Spanish Government, of which a translation is enclosed.

2. His Majesty's Representative will be asked to forward a copy of his note to the Spanish Government for communication to His Majesty's Government in Canada.

I have etc.

L. S. AMERY

[PIÈCE JOINTE/ENCLOSURE]

*Le ministre d'État d'Espagne au chargé d'affaires britannique  
en Espagne*

*Spanish Minister of State to British Chargé d'Affaires  
in Spain*

No. 237

Madrid, July 19, 1928

TRANSLATION

Sir,

I have the honour to acknowledge receipt of your Note No. 181 of the 12th instant, in which you inform me that in accordance with instructions received from His Majesty's Principal Secretary of State for Foreign Affairs, His Majesty's Government in Canada, in conformity with Article 4 of the Convention of April 5th, 1927, and Article 11 of the Companies' Agreement of the 27th June, 1924, desires that the stipulations of the Treaty of Commerce and Navigation between Spain and Great Britain and Northern Ireland signed in Madrid on the 31st October, 1922, as modified by the Convention signed in London on the 5th April, 1927, and of the Agreement between Spain and Great Britain and Northern Ireland regulating the Treatment of Companies signed at Madrid on the 27th of June, 1924, be

applied to Canada as from the 1st of August next, and enquired whether His Catholic Majesty's Government would agree to the above date as that from which the said stipulations shall apply to Canada.

It was suggested that, notwithstanding the provisions of Clause 3 (a) of the Modus Vivendi concluded in Madrid by an exchange of notes<sup>1</sup> between Senor Marqués de Magaz and Sir Horace Rumbold, in the name of Canada, on the 10th April, 1925, that the provisions of the said notes shall cease to have effect as from mid-night the 31st July—1st August, 1928.

In reply I have the honour to inform Your Excellency that His Catholic Majesty's Government is entirely in agreement with the above proposal, and therefore considers that the agreement in question should be completed by the present Note and your Note to which I reply, the said agreement entering into force on the 1st August, 1928.

I avail myself etc.

MARQUES DE ESTELLA

## UNION DES RÉPUBLIQUES SOCIALISTES SOVIÉTIQUES

### UNION OF SOVIET SOCIALIST REPUBLICS

951.

*Le secrétaire aux Dominions au Gouverneur général*

*Dominions Secretary to Governor General*

TELEGRAM

London, July 2, 1926

CONFIDENTIAL. Your telegram of March 27th. Enquiry also received from H. M. Representative at Moscow whether diplomatic visa should be granted Korolev.

Position in this country is that H. M. Government have accepted list of some 10 individuals who are permitted to enter the United Kingdom as Soviet Diplomatic Couriers, with sealed bags. Such are granted permanent diplomatic visas, valid for all journeys to the United Kingdom so long as they act as Couriers. In view of this comparative freedom of entry, H. M. Government are prepared to accept as Couriers only those as to whose records they are satisfied.

Information has now been received from Riga that Korolev was formerly in the Military Commissariat and also working in the political section of the Soviet War Office. Accordingly, H. M. Government would probably refuse application from him to travel as Courier to the United Kingdom, either in transit or otherwise.

In the circumstances please telegraph what reply your Ministers would wish returned to H. M. Representative at Moscow.

<sup>1</sup> Voir Volume 3, document 861 et pièces jointes.

<sup>1</sup> See Volume 3, Document 861 and enclosures.

952.

*Le Gouverneur général au secrétaire aux Dominions*  
*Governor General to Dominions Secretary*

TELEGRAM

Ottawa, August 3, 1926

Canadian Government has been informed by the Assistant Official Agent of the Union of Soviet Socialist Republics in Canada that the Soviet Government contemplates appointing Lomirgin Federovitch Gerus as Official Agent to succeed A. A. Yazikoff, and has been advised further that a similar notification is being transmitted to you. Mr. Gerus was for three years a member of the Soviet Mission in London. Canadian Government is prepared to accept Mr. Gerus unless His Majesty's Government considers his appointment undesirable. Canadian Government are informed that Mr. Gerus is now in Moscow and is prepared to leave for Canada at any time.

It is considered that the question of granting a diplomatic visa to Korolev might await decision as to Gerus.

953.

*Le Gouverneur général au secrétaire aux Dominions*  
*Governor General to Dominions Secretary*

TELEGRAM

Ottawa, September 23, 1926

Your telegram September 8th—Visa for Gerus—Your telegram July 2nd—Visa for Korolev—Upon consideration of the views sent forth in the above telegrams, the Canadian Government agrees that a visa should be granted to Gerus, wife and children, but that a visa should not be granted to Korolev.

954.

*L'agent officiel de l'Union soviétique au sous-secrétaire d'État*  
*aux Affaires extérieures*

*Official Agent of the Soviet Union to Under-Secretary of State*  
*for External Affairs*

Montreal, January 11, 1927

Dear Sir,

In the course of the correspondence which passed between you and Mr. Ivan J. Kulik, former Assistant Official Agent, concerning the matter of Canadian Immigration Officers in Bucharest vising the so called "passports" issued by one, A. Baranowski, official of the former Russian regime and styling himself "Russian Consul", you wrote as follows on May 12th:

I have made enquiries of the appropriate Department and am informed that the Canadian Immigration Office at Bucharest was closed shortly after the time



that this passport was issued (May 5, 1924) and that no visas are being granted there now. It is added that the officer who granted the visa in this particular instance was subsequently dismissed from the service. The Canadian Government does not recognize the validity of passports issued by officials of the former Russian regime.

On May 17, 1926, Mr. Kulik wrote to you, confirming receipt of the letter above quoted, thanked you for making the enquiries and expressed his deep satisfaction with your statement as quoted above.

I regret to state that, notwithstanding your assurance that "the Canadian Government does not recognize the validity of passports issued by officials of the former Russian regime," since then, such "passports" were presented to this office on several occasions. I am enclosing herewith one of them which was visaed by Canadian Immigration Officers in Danzig as late as Sept. 20, 1926 and part of another "passport" which was visaed also in Danzig after April 14, 1925.

I am bringing this matter to your attention in the hope that you will give it your earnest consideration and that proper steps to do away with this practice, which is contrary to the agreement existing between our countries, will be taken.

Yours very truly,

L. GERUS

955.

*Le sous-secrétaire d'État aux Affaires extérieures à l'agent officiel  
de l'Union soviétique*

*Under-Secretary of State for External Affairs to Official Agent  
of the Soviet Union*

Ottawa, February 17, 1927

Dear Sir,

With reference to my letter of February 4th on the subject of the vising by Canadian Immigration Officers in Danzig of documents issued by officials of the former Russian regime, I am now able to say that enquiry has been made through the Immigration authorities.

The Department of Immigration states that the situation has not been changed in any way since May 12th, 1926, when you were informed that the Canadian Government does not recognize the validity of passports issued by officials of the former Russian regime. It is true that the documents which were enclosed in your letter of January 11th were stamped by the Department's Inspectional Officer in Danzig. This stamp was simply intended to indicate that the holders of the documents had passed inspection as required by Canadian law and did not indicate that the documents were accepted as passports. As a matter of fact, in the cases referred to the admission of the aliens in question had been approved by the Department without passports, in accordance with an arrangement by which an Association

in Canada assumes all the obligations for the care and maintenance of certain immigrants which would otherwise fall upon a Province or municipality. These cases are dealt with by correspondence and a letter is issued in each individual case setting out the conditions of entry and authorizing visa. It is necessary to have some document bearing a description and photograph of the immigrant. As stated previously, however, it is not implied that such a document is regarded by the Department of Immigration as a valid passport.

Yours sincerely,

O. D. SKELTON

956.

*Le secrétaire aux Dominions au Gouverneur général*

*Dominions Secretary to Governor General*

PARAPHRASE OF TELEGRAM

London, May 19, 1927

SECRET. Following for Prime Minister. Begins. As a result of the police search at the premises of Arcos the information now available makes it abundantly clear that Arcos has been used as a centre of military espionage and of Communist activities both in the United States, the Dominions and in this country, and has been in close touch with the Soviet Diplomatic Agency for these purposes. We have postponed promised statement in the House of Commons, pending fuller Cabinet consideration, till next Tuesday in view of the gravity of the information, but that the disclosure of facts will almost certainly involve diplomatic relations being broken off is already evident. Ends. See my telegram of May 16th.

957.

*Le secrétaire aux Dominions au Gouverneur général*

*Dominions Secretary to Governor General*

PARAPHRASE OF TELEGRAM

London, May 23, 1927

IMMEDIATE. SECRET. Anglo-Soviet relations—my preceding cypher telegram of to-day. With regard to the statement already telegraphed, it is intended that it should be immediately followed by a further statement showing that evidence is available to prove every basis on which not only the Soviet Trade Delegation and also the Soviet Legation could be permitted to remain in this country has been violated and that H. M. Government in Great Britain is left no choice but to terminate the Trade Agreement of 1921 and to sever diplomatic relations with the Government of the Soviet Union, in view of the cumulative effect of the evidence in possession of His Majesty's Government. This further statement, the form of which is now under consideration, will be communicated to you in a separate telegram as soon as possible.

958.

*Le secrétaire aux Dominions au Gouverneur général*  
*Dominions Secretary to Governor General*

PARAPHRASE OF TELEGRAM

London, May 23, 1927

IMMEDIATE. SECRET. Please inform your Ministers, in connection with my telegrams as to Anglo-Soviet relations, we are advised that the termination of the Russian Trade Agreement of 1921 in relation to this country would not in the absence of intimation that the notes exchanged of July 3rd, 1922 are no longer regarded as governing the relations between Canada and Soviet, necessarily terminate the operation of the Agreement as between the Soviet Government and the Canadian Government. Of course the Soviet Government might act on the view that, under the Agreement to Canada as well as ourselves, it is relieved of any obligations.

With regard to the continuance of the Agreement as between Canada and Soviet, we should be grateful if your Ministers would consider what action they will take and as to their decision give us early information. Especially as the Soviet action which has led to the present situation is directed against the institutions of all parts of the British Empire, we should like to suggest for consideration that as regards the retention of Soviet representatives that this is a matter on which uniformity of action by the various members of the Commonwealth concerned would present great advantages. It is our impression that there are, under the Trade Agreement, at the moment, no representatives in Canada and in the Soviet Union, but if there should be and your Ministers would wish action taken with regard to them similar to that which we shall have to take, in order to facilitate departure, with regard to His Majesty's Chargé d'Affaires at Moscow and his Staff, at once please let us know.

959.

*Le Gouverneur général au secrétaire aux Dominions*  
*Governor General to Dominions Secretary*

PARAPHRASE OF TELEGRAM

Ottawa, May 24, 1927

IMMEDIATE. SECRET. With reference to your telegrams of May 23rd regarding Anglo-Soviet relations. My advisers will consider in Cabinet meeting to-morrow the general situation as between Canada and the Soviet Union. There is no representative of Canada in the Soviet Union, but the Union has been continuously represented in Canada under the Agreement since 1924, and is now represented by L. F. Gerus as Official Agent. The despatches received do not indicate that any documents have been found in the Arcos raid which establish that the Official Agency in Canada has been a centre of espionage and subversive propaganda. If any evidence to this effect has been

discovered, it is desired to be informed as early as possible. It is further desired to learn whether His Majesty's Government in Great Britain, in terminating the Trade Agreement, are acting under Paragraph 1 of Article 13 of the Agreement, providing for six month's notice, or under Paragraph 3, providing for immediate termination in the event of an infringement, and in the latter case whether any special steps have been taken towards giving the other party an opportunity of furnishing an explanation.

960.

*Le secrétaire aux Dominions au Gouverneur général*  
*Dominions Secretary to Governor General*

PARAPHRASE OF TELEGRAM

London, May 25, 1927

STATE. SECRET. With reference to your telegram of May 24th regarding Anglo-Soviet relations. First question—Such information as was obtained from Arcos raid directly relating to Canada was sent in message to Colonel Starnes, Commissioner of Royal Canadian Mounted Police on May 21st from New Scotland Yard. Second question—It is under Third Paragraph of Article 13 of 1921 Agreement that action is being taken by His Majesty's Government. It was felt that situation disclosed in statement of Prime Minister in House of Commons yesterday (See particularly latter part of telegram 24th May) following protest and warning in note of February 23rd from Secretary of State for Foreign Affairs (See my despatch 5th April, Dominion 211 and Prime Minister's telegram February 23rd) constituted such overwhelming evidence of violation of trade Agreement as to necessitate without giving further opportunity for further explanation action foreshadowed in the last Paragraph but one of Foreign Secretary's note.

961.

*Le commissaire adjoint, Gendarmerie royale du Canada,*  
*au sous-secrétaire d'État aux Affaires extérieures*  
*Assistant Commissioner, Royal Canadian Mounted Police,*  
*to Under-Secretary of State for External Affairs*

PERSONAL AND SECRET

Ottawa, May 25, 1927

Dear Doctor Skelton,

As I see that Mr. Baldwin stated in the British House of Commons that the addresses of Canadian Communists were found in the Arcos raid, it may be as well to let you know that on Saturday, 21st May, I received a secret cipher cable message from New Scotland Yard, a copy of which I append.<sup>1</sup>

With two or three exceptions (most of which I suspect to be aliases) these addresses were perfectly well known to me; the message was interesting to

<sup>1</sup> Non reproduite.<sup>1</sup> Not printed.



us as revealing the precise channels through which communications pass to the Canadian Communists. Of the fact that communication is maintained, as you know, we are perfectly well aware.

Yours sincerely,

G. S. WORSLEY

962.

*Le Gouverneur général au secrétaire aux Dominions*  
*Governor General to Dominions Secretary*

TELEGRAM

Ottawa, May 26, 1927

SECRET. Begins. Your telegrams regarding Anglo-Soviet relations. My Ministers have been giving careful consideration to the situation resulting from the statement made by your Prime Minister in the House of Commons yesterday as to Soviet espionage and propaganda and the decision of His Majesty's Government in Great Britain to break off diplomatic relations with the Soviet Union and terminate the Trade Agreement. They have been particularly concerned with the bearing of these developments on Canada's adherence to the Trade Agreement. So far as Canada is concerned there has been a steady and substantial growth of trade under the Agreement and there has not been any substantial ground of complaint as to espionage or propaganda against the present official agent in Canada. It appears possible to take two views as to the effect of the termination of the Agreement by the Government of Great Britain. In one interpretation Canada may be considered simply to have adhered to an existing Anglo-Soviet Agreement with the consequence that on the lapse of this agreement her own arrangement ceases to have a basis and lapses automatically. If this view is taken the question settles itself. In the other interpretation the Canadian agreement would be held to have an independent existence and would continue unless expressly terminated. In this case it becomes the duty of the Canadian Government to decide whether it is desirable to terminate it. My Ministers have concluded that the evidences of espionage and subversive propaganda set forth by your Prime Minister make it clear that an essential condition of the Agreement as entered into by Canada as well as by Great Britain, namely, that each party should "refrain from hostile action or undertakings and from conducting outside of its own borders any official propaganda direct or indirect against the institutions of the British Empire", has not been fulfilled. In order to remove any doubt as to whether the Agreement lapses automatically and having regard to all the circumstances, they have accordingly decided to terminate the Agreement. My Prime Minister so informed the official agent this evening in the course of a lengthy interview. It was added that it was not desired to hinder but on the contrary to encourage trade between Canada and the Soviet Union. Further consideration will require to be given to the details of the termination, and especially to the length of time required for bringing to a close the operations of the agency. Ends.



963.

*Le secrétaire aux Dominions au Gouverneur général*  
*Dominions Secretary to Governor General*

TELEGRAM

London, May 26, 1927

IMMEDIATE. SECRET. Your telegram of May 26th. Anglo-Soviet relations. H. M. Government in Great Britain greatly appreciate the prompt consideration of the position by H. M. Government in Canada and the resulting action. We will, of course, let you know at once of the result of the debate in the House of Commons to-day. If the note is delivered, of which text was telegraphed yesterday, would it be your Ministers desire that further note should be sent by the Secretary of State for Foreign Affairs to the Soviet Chargé d'Affaires intimating that he is desired by H. M. Government in Canada to inform him that they regard the arrangement made in notes exchanged on July 3rd 1922 as no longer having effect, and if so, would they wish any addition should be made as regards the matter referred to in the last sentence of your telegram.

964.

*L'agent officiel de l'Union soviétique au Premier ministre*  
*Official Agent of the Soviet Union to Prime Minister*

TELEGRAM

Montreal, May 26, 1927

Pray once more hesitate to abolish the Treaty with the Soviet Union if it is inevitable let us abolish it in accordance with the Anglo-Russian Trade Agreement which says "before taking any action inconsistent with the agreement the aggrieved party shall give the other party a reasonable opportunity of furnishing an explanation of remedying the default". Give me an opportunity to present you with an explanation on behalf of the Soviet Government regarding the accusation made against it by the British Government. The latter treats the Government of the workers and peasants with contempt but I believe the people of Canada whom you represent disagree with this spirit and it would be in harmony with their opinion and desire if your Government would make a decision only after studying the explanation of the Soviet Government. It is easy to break a precious thing but it is difficult to create it. You have plenty of time to break the Treaty if you will find the explanation of the Soviet Government unsatisfactory. During my last interview with you I asked you whether you have any grievances against the Soviet agency in Canada. You answered "no". On my way from Ottawa to Montreal I read your statement that "no espionage by Russian Office at Montreal found". Under different circumstances this statement would please me very much but I carried in my heart the sorrow of the injustice which your Government committed against the workers and peasants Government

of the Soviet Union. I recollected that you once told me that your grandfather suffered for the sake of the poor people. I wish his spirit would advise you not to commit an injustice at the present tragic time and to do your utmost not to break the relations between Canada and the Union of Soviet Socialist Republics, the two countries that have so many interests in common.

965.

*L'agent officiel de l'Union soviétique au Premier ministre*  
*Official Agent of the Soviet Union to Prime Minister*

Montreal, May 28, 1927

Sir,

It was a desire to save the Trade Agreement between Canada and the Union of Soviet Socialist Republics that prompted me to address a telegram to you under date of May 26th, requesting you to postpone the decision to abrogate it, until I would be in a position to present you with an explanation of the charges made by the British Government against that of the Soviet Union. It was sent to you as a personal communication and without consulting my Government.

Since then, I sent a copy of the telegram to Moscow, requesting advice as to the proper mode of action under the present circumstances. My Government did not approve of my communication to you and requested me to leave Canada as soon as possible.

In view of the above, I would greatly appreciate your ignoring the contents of my telegram.

It is with profound regret that I must notify you of my intention to close the offices of our Official Agency and Trade Delegation within two weeks.

Thanking you very much for the courtesy and assistance your Government extended to me during the existence of the Official Agency and Trade Delegation in Canada, I am,

Your obedient servant,

L. GERUS

966.

*Le Premier ministre à l'agent officiel de l'Union soviétique*  
*Prime Minister to Official Agent of the Soviet Union*

Ottawa, May 30, 1927

Sir,

I am in receipt of your letter of May 28th, stating that your Government has not approved of the telegram which you addressed to me on May 26th and asking me to ignore its contents.

Before receiving your letter I had instructed the Under-Secretary of State for External Affairs to reply to your telegram, indicating that the Canadian Government could not reconsider its decision. I had also instructed him to give to the answer the same publicity that attended your telegram.

I note that in accordance with the instructions of your Government you are arranging to close the offices of the Official Agency and Trade Delegation within two weeks.

I desire to acknowledge your appreciation of the courtesy and assistance extended to you by the Canadian Government during the existence of the Official Agency and Trade Delegation in Canada, and to assure you of my personal consideration.

I am etc.

W. L. MACKENZIE KING

967.

*Le Gouverneur général au secrétaire aux Dominions*  
*Governor General to Dominions Secretary*

TELEGRAM

Ottawa, May 30, 1927

SECRET. Your telegram May 26th. Anglo-Soviet Relations. My Ministers request that a note should be sent by the Secretary of State for Foreign Affairs to the Soviet Chargé d'Affaires intimating that they regard the arrangement made in the notes exchanged on July 3rd, 1922, as no longer having effect, but that they are prepared to provide for the continuance of ordinary trade facilities between Canada and the Soviet Union.

968.

*Le secrétaire aux Dominions au secrétaire d'État*  
*aux Affaires extérieures*

*Dominion Secretary to Secretary of State for External Affairs*

TELEGRAM B. 82

London, June 24, 1929

SECRET. Following from Prime Minister for Prime Minister. Begins. The Cabinet has been considering question of relations with Russia with special reference to commercial considerations connected with establishment of relations. The best policy is, we feel, to take action with a view to exploring the possibility of resumption of diplomatic relations subject to such conditions as may be necessary. Best procedure from this point of view seems to

be to inform Soviet Government through Norwegian Government<sup>1</sup> that we would be prepared to consider the resumption of normal relations, and to suggest that Soviet Government should send a representative to London to discuss the preliminaries necessary. We are anxious that it should be possible for our line of policy in this matter to be announced at the opening of Parliament and we should accordingly like to take action in the latter part of this week in the sense indicated in preceding sentence.

Naturally we shall keep Dominion Governments fully informed of the course of the discussion with the Soviet representative if it takes place and of conditions which discussion indicates as suitable for any resumption of diplomatic relations, moreover it would be our intention that the actual resumption should not take place without previous consultation with the Dominions. Message ends.

969.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 128

Ottawa, July 19, 1929

SECRET. Following from Prime Minister for your Prime Minister. Begins. I beg to acknowledge the information contained in your secret telegram Circular B. 82 of the 24th June to the effect that His Majesty's Government in the United Kingdom have been considering the resumption of diplomatic relations with Russia, and were proposing to inform the Soviet Government through Norwegian Government that they would be prepared to consider resumption of normal relations and to arrange a discussion in London for this purpose.

I understand this statement has been sent for our information. We note that it is your intention that the actual resumption should not take place without previous consultation with the Dominions. We assume this refers to consultation on details in view of the fact that His Majesty's Government in the United Kingdom have apparently reached a decision on the principle. We think it desirable therefore to state at the present time that we consider the question of diplomatic relations between United Kingdom and U.S.S.R. one primarily of concern to His Majesty's Government in the United King-

<sup>1</sup> Dans un télégramme du secrétaire d'État aux Dominions au Gouverneur général, en date du 15 juin 1927, il est dit:

<sup>1</sup> A telegram from the Secretary of State for Dominion Affairs to the Governor General for the Prime Minister dated June 15, 1927, stated:

Arrangements have been completed whereby the Norwegian Minister at Moscow will take charge of British interests.

dom and not one calling for an expression of opinion on our part one way or the other as to the course His Majesty's Government in the United Kingdom should adopt.

When intimating in May, 1927, that they regarded the arrangements as to exchange of Official Agents between Canada and the U.S.S.R. established through the notes exchanged on July 3rd, 1922, as no longer having effect, His Majesty's Government in Canada stated that they were prepared to provide for the continuance of ordinary trade facilities between Canada and the Soviet Union, they are still prepared to do so. Ends.

970.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

PARAPHRASE OF TELEGRAM B. 147

London, October 3, 1929

SECRET. My telegram 2nd October, Circular B. 146, Secret. The text of Protocol which was signed by Secretary of State for Foreign Affairs and Dovgalevsky today is given in my immediately following cable.

A further telegram will be sent later as regards undertaking to be given by His Majesty's Government in the United Kingdom under head seven of Protocol. Meanwhile I may say that Secretary of State for Foreign Affairs in his conversations with Dovgalevsky made it clear to latter that His Majesty's Government in the United Kingdom regarded Article 16 of 1924 Treaty as applicable to propaganda by Third International and that they would act upon this interpretation of guarantee to be given. Ends.

971.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM B. 148

London, October 3, 1929

SECRET. Russia. Following is text of document as signed. Begins. Protocol relative to procedure for settlement of questions outstanding between His Majesty's Government in the United Kingdom and the Government of the Union of Soviet Socialist Republics, such procedure to become operative immediately on the resumption of full diplomatic relations between the two States, including exchange of Ambassadors.

The undersigned The Right Honourable Arthur Henderson, M.P., His Majesty's Principal Secretary of State for Foreign Affairs, M. Valerian Dovgalevsky, Ambassador of the Union of Soviet Socialist Republics to the



French Republic, having, on instructions from their respective Governments, entered into an exchange of views on questions connected with above mentioned subject, have reached the following Agreement:

1. The following questions shall be settled by negotiations between the two Governments.

(i) Definition of the attitude of both Governments towards Treaties of 1924;

(ii) Commercial Treaties and allied questions;

(iii) Claims and counter-claims, inter-Governmental and private; debts, claims arising out of intervention and otherwise, and financial questions connected with such claims and counter-claims;

(iv) Fisheries;

(v) Application of previous Treaties and Conventions.

2. Negotiations between His Majesty's Government in the United Kingdom and the Government of the Union of Soviet Socialist Republics with a view to the settlement of the above mentioned questions shall take place, immediately on the resumption of full diplomatic relations including the exchange of Ambassadors.

3. The aforesaid negotiations shall be conducted on behalf of the Government of the Union of Soviet Socialist Republics by the Soviet Ambassador in London, and on behalf of His Majesty's Government in the United Kingdom by His Majesty's Secretary of State for Foreign Affairs.

4. The plenipotentiaries of the two Governments shall, if necessary, be assisted by Joint Committee the Members of which shall be appointed in equal numbers by each Government from among their nationals whether officials or not specially acquainted with the matter under discussion.

5. These experts shall report to each of the plenipotentiaries on the results reached in their joint examination of the respective questions and on solutions thereof which they suggest.

6. All agreements resulting from negotiations between plenipotentiaries shall take the form of a treaty or treaties between the two Governments.

7. Immediately on the actual exchange of Ambassadors and not later than the same day as that on which the respective Ambassadors present their credentials both Governments will reciprocally confirm the pledge with regard to propaganda contained in Article XVI of the Treaty signed on the 8th August, 1924, between Great Britain and Northern Ireland and the Union of Soviet Socialist Republics.

8. Simultaneously with the approval of both Governments of the procedure laid down in paragraphs 1 to 7, His Majesty's Government in the United Kingdom will take the decision to resume normal diplomatic relations with the Union of Soviet Socialist Republics including the exchange of Ambassadors.

9. The steps to be taken as set out in the preceding paragraphs including the decision concerning the re-establishment of diplomatic relations will be brought for approval before Parliament early at the beginning of the next session. Immediately after this question shall have been discussed in Parliament each of the two Governments will take the usual steps for the appointment of their respective Ambassadors. London, 3rd October, 1929. Ends.

972.

*Le Dominions Office au sous-secrétaire d'État aux Affaires extérieures*

*Dominions Office to Under-Secretary of State for External Affairs*

London, October 5, 1929

My dear Skelton,

I informed the Foreign Office at once of our conversation yesterday about the question of resumption of relations between this country and the Soviet and they asked me to assure you that you need be under no apprehension whatever that under the terms of paragraph 8 of the Protocol the Dominion Government would be committed to receive Soviet consuls in Canada.

Later in the afternoon the Foreign Office also informed me that M. Dovgalevsky had intimated that the Soviet intended to publish the Protocol at once and it was decided, therefore, to publish also in this country. The Soviet methods of diplomacy are truly lacking in courtesy.

I would have told you last night if I had had a moment, but I was at the fullest drive over this and other matters. We, of course, informed Mr. Mackenzie King and the other Dominion Prime Ministers last night.

Yours sincerely,

H. F. BATTERBEE

973.

*Le Haut commissaire au secrétaire d'État aux Affaires extérieures*

*High Commissioner to Secretary of State for External Affairs*

TELEGRAM 91

London, October 11, 1929

Following from Dr. Skelton for Prime Minister. Begins. Dominions telegram Circular B. 148, regarding Protocol with Soviet Union. Paragraph 7 provides for confirming of pledge with regard to propaganda in Article 16 of 1924 Treaty. This Treaty was drafted between Great Britain only and Soviet Union, but being prepared before 1926 purported to cover the whole of the British Empire in pledge. In negotiations now rapidly proceeding it

will be necessary for Foreign Office to state whether Canada wishes Soviet negotiators to be informed that pledge and counter pledge should accordingly not apply to Canada, or whether on the contrary they can be informed that the Canadian Government authorize application of this pledge to Canada in both ways. Assumed that you would prefer latter alternative, but would like to be informed immediately of your wishes. Ends.

974.

*Le secrétaire d'État aux Affaires extérieures au Haut commissaire*  
*Secretary of State for External Affairs to High Commissioner*

TELEGRAM 101

Ottawa, October 11, 1929

Following for Skelton from Prime Minister. Begins. Your cable October eleventh re protocol Soviet Union. Yes. Latter alternative preferable. Ends.

975.

*Le secrétaire aux Dominions au secrétaire d'État*  
*aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM 142

London, October 29, 1929

IMPORTANT. SECRET. My telegram of the 3rd October, Secret, Circular B. 148. In connection with heads I (i) and (v) of the Protocol the question of the Fur Sealing Protection Convention of the 7th July, 1911, should be included in the list of multilateral treaties to be regarded as in force. In this connection see the Governor General's telegram of the 9th August, 1924, Secret<sup>1</sup>, and previous correspondence regarding arrangements proposed in regard to this Convention in connection with Article IV of the General Treaty of 1924.

Would His Majesty's Government in Canada be willing that similar arrangements should be adopted on this occasion? It is, of course, understood that if subsequent negotiations are necessitated either for the revision of the Treaty or for its replacement by a fresh Agreement in the event of the Governments of the United States of America and Japan being unwilling themselves to regard Convention of 1911 as still in force, opportunity would be given to His Majesty's Government in Canada to be represented in any such negotiations.

<sup>1</sup> Volume 3, document 839.

<sup>1</sup> Volume 3, Document 839.

976.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 185

Ottawa, October 30, 1929

Replying to your secret telegram No. 142 arrangements in regard to Fur Sealing Protection Convention of 7th July, 1911, His Majesty's Government in Canada is willing that arrangement similar to that agreed to in Governor General's confidential telegram 13th August, 1924, should be adopted on present occasion on the understanding that if subsequent negotiations are necessitated either for revision of treaty or for its replacement by a fresh agreement Canadian Government shall be represented in such negotiations.

977.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM A. 46

London, November 28, 1929

SECRET. My telegram 12th November, Secret, Circular B. 174. Relations with Union of Soviet Socialist Republics. Norwegian Government has been requested to instruct Norwegian Minister at Moscow to communicate to the Soviet Government drafts of notes on the subject of propaganda which it is proposed to address to them on the occasion of presentation by respective Ambassadors of their Letters of Credence and to enquire whether the Soviet Government concurs in the procedure proposed. These include:

(a) Draft of a note to be presented by His Majesty's Ambassador at Moscow stating that His Majesty's Government in the United Kingdom confirm undertaking contained in Article XVI of the Treaty signed on the 8th August, 1924, and regard it as having full force and effect as between themselves and the Soviet Government and asking for corresponding declaration from the Soviet Government;

(b) Draft of a note to be presented by His Majesty's Ambassador on the same occasion stating that at the instance of His Majesty's Governments in the Dominions that those Governments have expressed desire that undertaking contained in Article XVI of the Treaty signed on the 8th August, 1924, shall also be applicable as between themselves and the Soviet Government, and that each of them regard this undertaking as having full force and effect as between themselves and the Soviet Union. This draft note further asks for reply confirming that undertaking is regarded by the Soviet Government also as applicable as between themselves and each of His Majesty's Governments in the

Dominions. It is expected that communication of above drafts to the Soviet Government by the Norwegian Minister will be effected on or shortly after 28th November.

978.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM A. 48

London, December 6, 1929

SECRET. My telegram of the 28th November, Secret, Circular A. 46, Union of Soviet Socialist Republics. Reply received through Norwegian Government intimating that the Soviet Government agrees to the terms of draft notes in respect of undertakings as between the United Kingdom and themselves, but adds in respect of draft note relating to Dominions as follows:

Canada broke off relations without subsequent resumption, and between other Dominions and Soviet Government there have not been nor are there any relations. When normal relations have been established between Soviet Government and Dominions Soviet Government is willing to effect similar exchange of notes with each of them and asks British Government to be so good as to investigate attitude of Dominions to this.

Reply has been sent through the Norwegian Government in the following terms:

When once His Majesty's Ambassador has taken up his duties relations between Dominion Governments and Soviet Government will be conducted in accordance with normal practice when a Dominion has no separate representation at a foreign capital through channel of the Ambassador.

I have the honour to inform you that each of His Majesty's Governments in Canada, Commonwealth of Australia, New Zealand, Union of South Africa, Irish Free State and Newfoundland is ready to effect an exchange of notes in terms analogous to those proposed to exchange between His Majesty's Government in the United Kingdom and the Soviet Government. These exchanges of notes would in practice referred to above be effected through British Ambassador at Moscow. This being so there is no need to investigate the attitude of the Dominions further and exchange of notes suggested by the Soviet Government can be effected at once.

979.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM 157

London, December 6, 1929

SECRET. My telegram of the 6th December, Secret, Circular A. 48. Reply to Soviet Government was sent after discussion with representatives of the Dominions at which Skelton represented Canada.



980.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM A. 51

London, December 13, 1929

IMMEDIATE. SECRET. My telegram 10th December, Circular A. 49. Matter was discussed today with Counsellor Designate of Soviet Embassy in London. From this discussion it appeared that Soviet Government would have no objection in principle to exchange of notes on the lines suggested in telegram sent through Norwegian Government as quoted in my telegram 6th December, Circular A. 48, but that in the first instance they would desire some assurance as to willingness of the Dominions to enter into negotiations especially on commercial matters such as had already been given by His Majesty's Government in the United Kingdom under Articles I and II of the Protocol, 3rd October. It was made clear that this was a matter on which it was not possible at present to make any statement to Soviet Government. Counsellor Designate undertook to report the position to his Government and ask for instructions. In the case of the Soviet Government pressing point we should be grateful for information as to attitude of His Majesty's Governments in the Dominions on this matter which could be communicated to the Soviet Government in so far as may be necessary. Impression gained was that Soviet have in mind in this connection chiefly question of trade relations with Canada but they may desire some definite indication as to views of other Dominions also.

Matter is very urgent as Soviet Ambassador Designate has just arrived in London and it will not be possible for presentation of his credentials (date of which will, under Article 7 of Protocol of 3rd October, determine time of exchange of undertakings between His Majesty's Government in the United Kingdom and Soviet Government) to be deferred for more than a few days.

If, as we appreciate may perhaps be the case, it proves impossible within the time available for any undertaking which would satisfy Soviet Government to be arranged, we should, of course, do our best to induce latter nevertheless to agree to exchange of notes in respect to the Dominions on the lines already proposed. If such efforts prove unsuccessful there seems no alternative but to proceed with agreed notes as between His Majesty's Government in the United Kingdom and the Soviet Government. It will be remembered that under wording of Article XVI of 1924 Treaty which is reproduced in proposed notes to be exchanged with His Majesty's Government in the United Kingdom Soviet undertaking is applicable to "The British Empire".

981.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM A. 54

London, December 19, 1929

IMMEDIATE. SECRET. My telegram Circular A. 51. As a result of several discussions between the Secretary of State for Foreign Affairs and the Soviet Ambassador Designate, it appeared that it would be possible to arrange forthwith exchange of notes in the following terms:

(i) Soviet Ambassador in London would present to the Secretary of State for Foreign Affairs following *note verbale*:

The Government of the Union of Soviet Socialist Republics in giving Undertaking contained in Article XVI of the General Treaty signed on the 8th August, 1924, between the Union of Soviet Socialist Republics and Great Britain and Northern Ireland, and confirmed by notes exchanged today, have considered that Undertaking as extending also to Dominions (Canada, the Commonwealth of Australia, New Zealand, the Union of South Africa, the Irish Free State and Newfoundland). Consequently as soon as the Government of any of the Dominions shall have regulated their relations with the Union of Soviet Socialist Republics in such a manner as circumstances of particular case may require, the Government of the Union of Soviet Socialist Republics will be ready to repeat on a basis of reciprocity the Undertaking above referred to in separate exchange of notes with such Dominions.

(ii) Secretary of State for Foreign Affairs would address to the Soviet Ambassador following reply:

With reference to your *note verbale* dated today, I have the honour to inform Your Excellency that the attitude of the Government of the Union of Soviet Socialist Republics as indicated in your note is being communicated to His Majesty's Governments in Canada, the Commonwealth of Australia, New Zealand, the Union of South Africa, the Irish Free State and Newfoundland.

2. Further I have the honour at the instance of His Majesty's Governments in Canada, the Commonwealth of Australia, New Zealand, the Union of South Africa, the Irish Free State and Newfoundland to state that each of these Governments will regard Undertaking contained in Article XVI of the Treaty signed 8th August, 1924, between Great Britain and Northern Ireland and Union of Soviet Socialist Republics as having full force and effect as between themselves and Government of Union of Soviet Socialist Republics.

This procedure is considerable advance on that described in my telegram Circular A. 51 and we are assuming that His Majesty's Governments in the Dominions would prefer it. It is evident that it represents maximum which can be secured from the Soviet Government in the present circumstances.

Arrangements are being made for the above notes to be exchanged together with note relating to the United Kingdom as soon as the Soviet Ambassador has presented his credentials.

982.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM B. 211

London, December 21, 1929

IMPORTANT. SECRET. My telegram of today Circular B. 210. It seems likely that in the course of negotiations Soviet Representative will enquire with reference to those Treaties which will be declared by our Convention to be still in force what is the position with regard to the Dominions. In so far as any of these Treaties are of general application (e.g. The Fur Sealing Convention of 1911, which is applicable equally to all subjects of His Majesty and to ships registered in any part of His Majesty's Dominions) or apply to individual Dominions it would help us if we were in a position to inform Soviet Representative, should any enquiry be made by them, that Dominion Governments concerned are willing that it should be placed on record by notes exchanged at the time of signature of Convention that it is the intention that the relevant provisions of these Treaties should continue to be applied as between the Soviet Union and the Dominions concerned to the same extent as in the past. Would this course be in accordance with the wishes of His Majesty's Governments in the Dominions? Particulars as regards application of Treaties in question can be furnished if desired.

As regards Treaties mentioned in Article III (which appear to apply to the whole of His Majesty's Dominions) it will be observed that it is contemplated that negotiations should be undertaken with a view to modifying Treaties in the light of modern conditions. If exchange of notes on the lines indicated above were effected opportunity could be taken to make it clear that in any such further negotiations account would be taken of position of the Dominions in relation to Treaties in question.

983.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

DESPATCH 718

Downing Street, December 28, 1929

Sir,

With reference to my despatch No. 422 of the 23rd July, regarding the position of certain members of the Mennonite Colony in Paraguay, I have

the honour to transmit, for the information of His Majesty's Government in Canada, the accompanying copy of a despatch (with enclosure) from His Majesty's Representative at Oslo, on the subject of the grant of passport facilities to Mennonites at Moscow or in Siberia who desire to proceed to Canada.

I have etc.

PASSFIELD

[PIÈCE JOINTE/ENCLOSURE]

*Le ministre britannique en Norvège au secrétaire  
aux Affaires étrangères britannique*

*British Minister in Norway to British Foreign Secretary*

DESPATCH 466

Oslo, November 21, 1929

Sir,

I have the honour to transmit to you herewith copy in translation of an interesting despatch which the Norwegian Minister at Moscow has addressed to his Government relative to an incursion of Germano-Soviet peasants and Soviet peasants to Moscow on account both of the bad conditions prevailing in Siberia, Ukraine, Caucasus and the German Volga Republic, and religious persecution. I would invite your special attention to the two last paragraphs of Mr. Urbye's despatch in which he suggests that, because of the desire of many of these unhappy people to proceed to Canada, the Authorities at Ottawa should be informed of the facts set forth in this report. Reference is also made by Mr. Urbye to the possibility of appointing a representative of the Canadian Government to Moscow, who would be vested with the necessary authority to examine the intending emigrants and to grant visas.

I have etc.

ALVARY GASCOIGNE

[ANNEXE A LA PIÈCE JOINTE/SUB-ENCLOSURE]

*Le ministre de Norvège en Union soviétique au ministre aux  
Affaires étrangères de Norvège*

*Norwegian Minister in Soviet Union to Norwegian Foreign Minister*

#### GERMAN COLONISTS IN THE SOVIET UNION

DESPATCH 452

Moscow, November 6, 1929

TRANSLATION

In the course of the autumn a great incursion of farm labourers from all parts of the Union to Moscow has taken place. Those who arrived first were

members of German colonies in Siberia, descendants of the Mennonites who emigrated to Siberia in the last century, became Russian subjects and have lived there since. They received land from the Russian Government on favourable conditions, and as they were skilled and energetic workers and respectable, honest people, they built up a good position for themselves, and when the revolution broke out they were all well to do.

Already in the middle of October about 6,000 arrived. They lived in summer villas along the stations on the Siberian railway, in the neighbourhood of Moscow, crowded together in small rooms and under unhealthy sanitary conditions. They related they had sold everything they owned, houses, cattle and furniture, and had come to Moscow in the hope of emigrating. In the first years after the revolution they had managed fairly well, even though difficulties increased year by year, but this year conditions had been quite unbearable. The harvest was very bad, in many places a total failure, so that they had not reaped as much as they had sown. At the same time public burdens, taxes, compulsory sale of corn, etc. had steadily become heavier, so that they had given up all hope of the future. But the most serious cause was religious persecution by the authorities, which made their lives unbearable. They could not speak or think of their children growing up in such a godless community. The mothers also maintained that efforts made to take children away from the influence of their parents and homes completely spoiled their lives.

The first colonists to arrive were in possession of money obtained by the sale of their property, but on account of the lack of purchasers and the great poverty in the district they had been obliged to sell houses, stock and other property at prices which were only a small fraction of their real value.

The invasion has continued since the middle of October, and colonists have come not only from Siberia, but also from Ukraine, Caucasus and even from the German Volga Republic, so that the number is now about 8,000. And those who remained behind have only one wish, to emigrate. I have been told that in Siberia alone, there are 10,000 families, and about 50,000 individuals who intend to leave their homes. The Russian peasants too are following their example. Such emigrants constantly come to the Legation and ask regarding the possibility of going to Canada.

At first the Soviet authorities did not appear to pay very much attention to the matter, but when the foreign correspondents began to interest themselves in these colonists and the supply of food for so many caused difficulties, the authorities announced that those who had already come would be given passports but that any further invasion would be stopped. The Mennonites in Canada provided the necessary travelling expenses, and it was believed that the majority of those who had already arrived would be able to emigrate. Passports have been made out for over 3,000 of these colonists



and have been handed in to the German Embassy for visas. However, during the last week the situation has become much more serious. On the one hand the Soviet authorities demand that the matter shall be settled at once, so that all those who have received passports shall leave Moscow in the course of the next few days. If they are not allowed to emigrate they must return home because they will not be allowed to remain in Moscow. On the other hand the Canadian authorities demand definite information regarding the health and financial condition of every single emigrant family before permission to enter Canada is given. As of course it will be quite impossible in these circumstances to arrange this matter in the short time prescribed by the Soviet Authorities, there is reason to fear that the majority of these unhappy people will be forced to return to Siberia where their position will be much more difficult than before since they have parted with all their worldly goods. Some hundreds have been given visas for Germany and it is not believed that the German Government will be able to give the other thousands permission to enter Germany before it is clear that they would be able to emigrate. In Germany there is already a great deal of unemployment and difficult labour conditions.

If in the near future the colonists are forced to return to Siberia, as is threatened, it is now too late to do anything. But I presume that the Canadian Government should be made acquainted with the facts as mentioned in this report. Now that diplomatic relations between the British Empire and the Soviet Union will presumably be resumed in the near future, there will of course be nothing to prevent a representative of the Canadian Government coming here with authority to give visas, whilst at the same time the necessary preparations can be made amongst the Mennonites in Canada for the reception of these emigrants. In the case of the colonists who have returned to Siberia, or who are still there, emigration would perhaps most easily take place over Vladivostock to a Canadian port on the west coast.

URBYE

984.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 13

Ottawa, January 23, 1930

SECRET. Reference your telegram of 21st December, Secret, Circular B.211. The Canadian Government would appreciate particulars as to application of such Treaties with Soviet Union as are of general application or apply to individual Dominions.

985.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM 9

London, January 29, 1930

SECRET. Your telegram of the 23rd January, Secret, No. 13. The following Treaties mentioned in Article IV of General Treaty of 1924 with the Union of Soviet Socialist Republics are of general application viz.:

No. 1. Redemption of Sound Dues, which relates to all British ships, and No. 11, Protection of Fur Seals, which relates to all British subjects and ships.

Following, according to our information, apply to Canada by virtue of accession viz.:

Nos. 3, 4 and 5, Submarine Cables, and No. 10, Collisions and Salvage. As explained in my telegram of the 21st December, Confidential Circular B. 210, it is proposed to delete No. 8 altogether, but to add:

(a) White Slave Traffic Agreement, 1904, and;

(b) Obscene Publications Agreement, 1910, to both of which Canada has acceded.

His Majesty's Government in Canada may also like information as to position in the case of Treaties mentioned in Article II of General Treaty of 1924. Of these No. 8, Consular Fees, applies in terms to all parts of His Majesty's Dominions, while Nos. 12 and 13, China, No. 14, Persia, Afghanistan and Tibet, and No. 16, Morocco, are of general application, in that their provisions apply to all British subjects.

The Treaties mentioned in Article III appear to apply in terms to the whole of His Majesty's Dominions, but as stated in my telegram of the 23rd December, Confidential, Circular B. 210, it is proposed to delete No. 3, Fugitive Criminals, and place it in Article II, and as stated in my telegram of the 27th January, Confidential, Circular B.18, it is not proposed to include No. 4, Money Orders, in any new Convention negotiated with the Union of Soviet Socialist Republics. It will moreover be observed that further negotiations are in contemplation in regard to the other Treaties mentioned in Article II with a view to their modification in the light of modern conditions. In the event of an exchange of notes on the lines indi-

cated in my telegram of the 12th December, Secret, Circular B. 211, referred to above, opportunity could be taken of making it clear that in any such further negotiations account would be taken of Dominions in relation to Treaties in question.

986.

*Le secrétaire, Haut commissariat, au secrétaire d'État  
aux Affaires extérieures*

*Secretary, Office of High Commissioner, to Secretary of State  
for External Affairs*

TELEGRAM 25

London, February 19, 1930

High Commissioner for the Union of South Africa called yesterday Tuesday with telegram from his Prime Minister regarding the following matter:

In October last the British Government, in considering resumption of diplomatic relations with Russia, secured undertaking regarding propaganda by reaffirming pledge contained in Article 16 of Treaty of 1924 which was undertaking extended to the Dominions. Please see despatch from Skelton to the Prime Minister of the 11th October and reply of the same date. This undertaking was extended to the Dominions by Exchange of Notes Verbales of the 20th December and British Government were thus acting on behalf of themselves and the Dominions. In circular telegram B. 211, 21st December, British Government informed the Dominions of the intention to deal with the Treaties referred to in Treaty of 1924 in Convention with the Soviet Government, and enquired whether Dominions would wish such Treaties to be extended to them by adopting the same procedure previously done. South Africa takes the position that the procedure formally adopted by the Dominions regarding Article 16 was resort [result?] of Russian refusal to contract with them until relations were placed on regular footing and in view of importance regarding undertaking against propaganda their action was justified. Their Prime Minister now considers Treaties under discussion of so little importance that public interest does not demand resort to procedure which cannot enhance their status and intends to reply to the British Government in this sense. He wishes, however, to have views of our Government before taking such action. Understand Irish Free State concurs in views of South Africa. Requested to consider matter as urgent.

PACAUD

987.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

DESPATCH 99

Downing Street, February 20, 1930

Sir,

I have the honour to enclose, for the information of His Majesty's Government in Canada, a copy of a draft Commercial Modus Vivendi<sup>1</sup> which is being presented to the Ambassador of the Union of Soviet Socialist Republics.

2. It will be noticed that it is proposed in Article 2 that certain personal privileges and immunities shall be accorded to the head of the Soviet Trade Delegation in London. The Soviet Government attach importance to a provision of this nature and have themselves put forward proposals of a much wider character.

3. It will also be noticed that the form of accession under Article 4 differs from the usual form in that such accession would be effected by means of an exchange of notes and not by a unilateral declaration on the part of the Government concerned. Similarly, it will be noticed that a sentence is included in Article 6, whereby the right is reserved to the Government of the Union of Soviet Socialist Republics to denounce the Article at any time in respect of any particular Dominion or of India. The wording in these two respects of these Articles is that proposed by the Soviet Ambassador. It also follows that of Article 17 of the Treaty of Commerce and Navigation between Great Britain and Northern Ireland and the Union of Soviet Socialist Republics signed on the 8th of August, 1924, and it was thought that no useful purpose would be served by suggesting a different wording on the present occasion.

4. A further communication will be made to you in due course as to the progress of the negotiations with the Soviet Ambassador.

I have etc.

PASSFIELD

988.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

No. 67

Ottawa, February 21, 1930

My Lord,

I have the honour to refer to Your Lordship's despatch No. 718 of the 28th December, 1929, transmitting a despatch from His Majesty's repre-

<sup>1</sup> Non reproduit.<sup>1</sup> Not printed.

sentative at Oslo on the subject of the grant of passport facilities to Menonites at Moscow or in Siberia desiring to proceed to Canada, and to state that the information concerning this question has been noted with interest and steps are being taken by the Department of Immigration and Colonization to facilitate the movement to Canada of a limited number of Menonites.

I have etc.

O. D. SKELTON  
for the Secretary of State  
of External Affairs

989.

*Le secrétaire, Haut commissariat, au secrétaire d'État  
aux Affaires extérieures*  
*Secretary, Office of High Commissioner, to Secretary of State  
for External Affairs*

TELEGRAM 43

London, March 7, 1930

My telegram 19th February, No. 25. The High Commissioner for South Africa has enquired few times whether I had received reply. If no decision is likely to be reached within a short time would suggest reply which I could convey to the High Commissioner for South Africa as a mark of courtesy to his Prime Minister who initiated enquiry.

990.

*Le secrétaire d'État aux Affaires extérieures au secrétaire,  
Haut commissariat*  
*Secretary of State for External Affairs to Secretary,  
Office of High Commissioner*

TELEGRAM 42

Ottawa, March 28, 1930

Your telegrams 19th February and 7th March regarding Russian treaties. Please inform High Commissioner South Africa we very much appreciate being advised of views of his government and regret delay in reply due to enquiries being made as to applicability of certain treaties concerned. We are not quite certain whether the difficulty felt by South African Government in the matter is based on objection to the method of exchange of notes to indicate Dominion concurrence in treaties or on objection to revival by any method of the treaties in question. As to latter point we agree that the greater number of treaties are not of much practical importance though Convention for the protection of fur seals in the North Pacific Ocean is of direct concern to Canada. We should like to be advised whether it is the



view of the South African Government that all of these treaties should be revived as regards Great Britain only and not as regards other members of the Commonwealth. On the first point if any are to apply we do not see force of objection to method of exchange of notes which would appear to be more flexible than direct participation in the main convention, permitting any Dominion to accept only such parts of Convention as were considered applicable, for example revival of old treaties.

With reference further to your telegrams of 19th and 21st March on draft commercial *modus vivendi*, provision in Article four makes accession by any Dominion optional and is in keeping with usual provision in British commercial treaties. It would therefore not seem to be open to objection unless whole practice of optional accession is to be questioned. As to notice of termination provisions in Article six constitute a concession extended by Soviet Union and therefore presumably terminable at its will. If mutual concessions are arranged under Article four they would presumably be terminable by each party with the same notice.

Please advise South African High Commissioner no reply made by Canadian Government to Dominions Office to circular telegram B. 211 or despatch No. 991. We should like to have further observations of South African Government before making reply.

991.

*Le secrétaire, Haut commissariat, au secrétaire d'État  
aux Affaires extérieures*

*Secretary, Office of High Commissioner, to Secretary of State  
for External Affairs*

TELEGRAM 77

London, April 8, 1930

Your telegram March 28th, No. 42, regarding Russian Treaties. South African Government through their High Commissioner have sent me following message in reply. Begins. Union Government do not object to principle of accession by exchange of notes direct between a Dominion and Russia and such members of the Commonwealth as may desire to do so. As these treaties are of little importance to us, and as we feel it would not be in the interest of the Union to enter into a trade treaty with Russia at present, we consider it inadvisable to do anything which might give Soviet Government impression that we are anxious to enter or that there is any possibility of our entering into such treaty. This we feel must necessarily be impression that would be created if we consented to an accession clause comprising Union of South Africa also in treaty between the United Kingdom and Russia. It will be remembered in negotiations regarding extension of Article 16 of 1924 draft treaty between Russia and United Kingdom, Russian Government refused to exchange notes with any Dominion before its relations with Russia had been placed on regular footing and that procedure then adopted resulted in peculiar triangular arrangement under

which Russia undertook towards the United Kingdom to extend Article 16 also to the Dominions, whereas the Dominions undertook towards Russia to observe terms of Article 16 in Dominions. This state of affairs Union Government consider unsatisfactory and derogatory to the status of a Dominion. We understood Dominions Office circular telegram B. 211 to contain repetition of this unsatisfactory procedure, but apparently Russia has now changed her attitude vide Article 4 of draft *modus vivendi*. Ends.

992.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

TELEGRAM 76

London, June 10, 1930

IMMEDIATE. SECRET. It is contemplated that negotiations as to application of previous treaties etc. will be opened with Soviet Ambassador on the 18th June. We should be grateful therefore for reply, if possible by the 15th June, to my telegram of the 21st December, 1929, Circular B. 211, Secret.

993.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

TELEGRAM 104

Ottawa, June 17, 1930

SECRET. Reference your telegram circular No. B. 211 of 21st December, 1929, and No. 76 of 10th June, 1930. Canadian Government are willing that it be placed on record by notes exchanged at time of signature of proposed Treaties Convention that the relevant provisions of these Treaties should continue to be applied as between the Soviet Union and the Dominion of Canada to the same extent as in the past.

Assume wording of notes to be exchanged can be determined when text of Convention is established.

994.

*Le secrétaire aux Dominions au secrétaire d'État  
aux Affaires extérieures*

*Dominions Secretary to Secretary of State for External Affairs*

DESPATCH 585

Downing Street, October 21, 1930

Sir,

With reference to your despatch No. 67 of the 21st February, I have the honour to transmit, for the information of His Majesty's Government in

Canada, the accompanying copy of a despatch to His Majesty's Representative at Moscow relating to the position of the Mennonites in the Soviet Union.

I have etc.

J. H. THOMAS

[PIÈCE JOINTE/ENCLOSURE]

*Le secrétaire aux Affaires étrangères britannique à l'ambassadeur  
britannique en Union soviétique*

*British Foreign Secretary to British Ambassador in Soviet Union*

DESPATCH 1147

London, October 11, 1930

Sir,

With reference to my despatch No. 365 of March 18th last, regarding the Mennonites in the Soviet Union, I have to inform you that the Reverend David Toews, Chairman of the Mennonite Church in Canada, called recently at this Department to ask if assistance could be given to these Mennonites, or whether any other way of helping them could be suggested.

2. Mr. Toews said that the sufferings of the Russian Mennonites, whose numbers he estimated at eighty thousand, were beyond description. According to the reports laid before a special conference of his co-religionists at Danzig, from which he had just returned, about twenty five thousand of these unfortunate people had been "liquidated as kulaks";—that is they were arrested, packed into trains as "volunteers for the timber industry", and taken off to Siberia or to the White Sea Area. There they were planted down in mid-winter, without any preparation, in so-called "concentration camps", where they had to make houses out of snow and live like Eskimos. When the snow thawed in the spring, the whole country was flooded, and they had to live in the trees; and Mr. Toews believes that in consequence of these hardships, twenty thousand out of twenty five thousand have already perished. In some cases whole families were thus deported; in other cases the families were split up.

3. The conference at Danzig had been unable to think of any way of helping these people, either by obtaining permission from the Soviet Government to remove them from the country, or by sending assistance to them: but Mr. Toews hoped that by appeals to the Red Cross Societies and to foreign governments some pressure might be brought to bear on the Soviet Government to induce them to treat the Mennonites less barbarously.

4. Mr. Toews was informed that, though every sympathy was felt at the tragic plight of these Mennonites, it was unfortunately impossible for His Majesty's Government to render them any assistance, as they were Soviet citizens.

I am etc.

H. J. SEYMOUR  
for the Secretary of State

995.

*Le secrétaire d'État aux Affaires extérieures  
au secrétaire aux Dominions*

*Secretary of State for External Affairs to Dominions Secretary*

DESPATCH 435

Ottawa, December 10, 1930

Sir,

With reference to your despatch No. 585 of October 21st, 1930, relating to the position of Mennonites in the Soviet Union, I have the honour to state that the Department of Immigration and Colonization of the Government has had considerable correspondence within the past few years over the admission to Canada of Mennonites as a result of which a good many thousands have entered this country. A little over a year ago the above Department endeavoured to assist, and did succeed in assisting, a number of those who were then in dire need at Moscow and who were subsequently moved to concentration camps in Germany. Hundreds of these came to Canada early this year. Many others went to South America. The suspension of the immigration movement is the result of the Canadian Order in Council of the 14th of August last which has affected the movement of Mennonites, as of others, and at present the only classes admissible are:

(a) Wives and children under eighteen joining family heads established in Canada.

(b) Agricultural families with sufficient capital to establish and maintain themselves on the land.

It is well known that Mennonites are for the most part bona fide agriculturalists, but owing to regulations made by the Soviet Government, practically no capital can be brought out of the Soviet Union with the result that the Mennonite agricultural families who come to this country arrive with very little more than the clothes on their backs. It does not appear that there is any prospect of a further movement of Mennonites from Russia to Canada in the near future.

I have etc.

O. D. SKELTON  
for the Secretary of State  
for External Affairs





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